

City Administrator Report to Mayor & City Council *2017-08-25, Edition No. 277*

WEEKLY UPDATE:

- Mississippi Drive: The project team met with local businesses on Thursday (24th), 8:30 a.m., at Contrary Brewing to explain the updated construction schedule, traffic control, access to local businesses and take feedback.
- September IN-Depth: Tentative Items include a brief update on local option sales tax renewal and we have several TIF or Tax Abatement requests to bring forward.
- October In-Depth: Potential discussion items include fireworks and the City Code cleanup items, minor changes, home based businesses, parking/yards, and the potential for a property maintenance code.
- 5th and Mulberry: 500 Mulberry Update provided by Community Development: The petition for title of 500 Mulberry was filed on 8-15-17. Notices to all potential parties involved are being sent out. The parties will have 20 days to respond. We will have a hearing within 60 days of the date the paperwork was filed. Concurrently, we are working on an RFP to send out so that we can have a buyer in place when the City acquires the property.
- Trail Presentation: Trail Committee - The City's Trail Committee is taking the lead on establishing appropriate trail signage proposals throughout the community. They have had a Powerpoint presentation from Bi-State and were provided an example of an Ordinance (Quad Cities) for Trail Use. The purpose of these efforts is to coordinate a standard for trail signage. As we reconstruct the Mississippi Dr./Grandview Corridor and as we build more trails in Muscatine (and Muscatine County) uniformity and information are very important.
- WPCP: Per WPCP Director Koch - We are officially on the agenda for the Biogas West Conference, a list with some pretty impressive resumes. Please see the following link: http://1.newenergyupdate.com/LP=17983?utm_campaign=4886-22AUG17WK09-4748BA&utm_medium=email&utm_source=Eloqua&elqTrackId=8ff12c448ed543acaa73ff6effbd7241&elq=56ee214d55fd465099e03e4ae573f330&elqaid=29605&elqat=1&elqCampaignId=14656.
- Backfill (Property Taxes): Finance Director Lueck prepared the attached computations for a 10%, 20%, and 25% reduction in the backfill and the impact it would have if the reduction was all replaced by an increase in the property tax Levy. This is just informational. However, we have heard that the backfill is on the table for this next legislative session.
- CDBG: Alley work is scheduled to begin on Monday and we have a plan to repair the bio-cell that will begin after the pavement work is completed.
- Fireworks: We are planning to return to council for a discussion related to fireworks at our October In-Depth session. We'll have updated statistics and look to review use, sale, enforcement, permitting, zoning, etc. At this point, staff is likely to stick with our original recommendations banning use and limiting sale. We will of course have alternatives suggestions should council wish to continue to allow the use of fireworks and a broader area for the sale of fireworks. Attached are the May and June council memos and a recent article regarding Cedar Rapids.

IN THE IOWA DISTRICT COURT IN AND FOR MUSCATINE COUNTY

CITY OF MUSCATINE, IOWA,
Petitioner,

v.

NINTH WONDER, INC.;
ACC 6, LLC; DUTRAC AND ITP;
ABIGAIL LAND HOLDINGS 18, LLC;
MUSCATINE COUNTY ASSESSOR
Respondents.

Case No. _____

**PETITION BY CITY FOR TITLE TO
ABANDONED PROPERTY PURSUANT
TO IOWA CODE CHAPTER 657A.10A**

COMES NOW the Petitioner, the City of Muscatine, Iowa, by and through its undersigned attorneys, and hereby files its Petition for Title to Abandoned Property pursuant to Iowa Code Chapter 657A.10A, and in support thereof states:

PARTIES

1. Petitioner, the City of Muscatine, Iowa (hereinafter “Plaintiff” or the “City”), is a municipality located in Muscatine County, Iowa.

2. Respondent Ninth Wonder, Inc. (hereinafter “Ninth Wonder” or “Property Owner”) is the record owner of real property in the City of Muscatine, Muscatine County, Iowa.

3. Respondent ACC6, LLC is listed as a Respondent by virtue of purchasing a tax sale certificate on the Property (Certificate No. 1501976) for the taxes due in 2013.

4. Respondent Dutrac and ITP is listed as a Respondent by virtue of purchasing a tax sale certificate on the Property (Certificate No. 1501976) for the taxes due in 2013.

5. Respondent Abigail Land Holdings 18, LLC is listed as a Respondent by virtue of purchasing a tax sale certificate on the Property (Certificate No. 170140) for the taxes due in 2015 and special assessment number 226034.

6. Respondent Muscatine County Assessor is listed as a Respondent by virtue of outstanding real estate property taxes on the Property.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to Iowa Code §602.6101 and Iowa Code §657A.10A(1)(b).

8. This Court has personal jurisdiction over Property Owner because it owns the property that is the subject of this Petition, which is located in Muscatine, Muscatine County, Iowa.

9. Venue is proper in this Court pursuant to Iowa Code §616.17 and Iowa Code §657A.10A(1)(b).

FACTUAL BACKGROUND

10. Ninth Wonder owns real property locally known as 500 Mulberry Avenue, Muscatine, Iowa and legally described as:

The Southerly 20 feet of Lot 5, and the Southerly 20 feet of the Easterly 30 feet of Lot 4, in Block 103, of the City of Muscatine, in Muscatine County, Iowa subject to reservations and agreements contained in deed recorded in Book 45 of Lots, at page 412, of the real estate records of Muscatine County, Iowa.

Parcel No. 08-35-434-031

(the “Property”).

11. There is situated upon the Property a building which is abandoned, vacant and dilapidated within the meaning of Iowa Code §657A.10A(3).

12. The Petitioner has documentation including photographs and utility records that support its statement that the building situated on the Property is abandoned, vacant and dilapidated.

13. On or about August 10, 2017, the City sent the Property Owner a notice to abate, alerting the Property Owner that the building located on the Property constituted a nuisance because the building was dilapidated, deteriorated and decayed. *See* August 10, 2017 letter, attached hereto as Exhibit 1.

14. Specifically, the following violations have been documented:

- a. The entire back wall of the building has deteriorated so severely that it has collapsed;
- b. The remaining exterior walls show signs of decay due to exposure to the elements;
- c. The roof of the house lacks any underlayment and/or shingles or tiles, causing interior leaks;
- d. The interior ceiling and walls have fallen;
- e. Many of the windows and doorways are boarded up; and
- f. The interior of the house is exposed to the elements, vermin, and accumulated debris.

See photos, attached hereto as Exhibit B.

15. The Property Owner has failed to take any action to remedy the deficiencies or demolish the building on the Property within the requested timeframe.

16. Records show that in December of 2016, utilities, power and water, were shut off and the meters were removed from the Property.

17. Since that time, the building on the Property has been unoccupied; the building is unfit for human habitation, occupancy or use; the building is in violation of the City's building and housing codes; and the building is exposed to the elements such that deterioration is occurring.

18. Since at least July of 2016, the City has been maintaining the weeds and snow at the Property.

19. The Property Owner has failed to make a good-faith effort to restore the Property to productive use.

PETITION BY CITY FOR TITLE TO ABANDONED PROPERTY

20. Petitioner incorporates by reference the allegations contained in all the paragraphs set forth above and below as though fully set forth herein.

21. Iowa Code §657A.10A(1)(a) provides that "a city in which an abandoned building is located may petition the court to enter judgment awarding title to the abandoned property to the city."

22. "The petition shall be filed in the district court of the county in which the property is located. Service on the owner and any other named respondents shall be by personal service or certified mail or, if service cannot be made by either method, by posting the notice in a conspicuous place on the building and by publication in a newspaper of general circulation in the city. The action shall be in equity." *See* Iowa Code §657A.10A(1)(b).

23. "In determining whether a property has been abandoned, the court shall consider the following for each building that is located on the property and named in the petition and the building grounds:

- a. Whether any property taxes or special assessments on the property were delinquent at the time the petition was filed.

- b. Whether any utilities are currently being provided to the property.
- c. Whether the building is unoccupied by the owner or lessees or licensees of the owner.
- d. Whether the building meets the city's housing code as being fit for human habitation, occupancy, or use.
- e. Whether the building meets the city's building code as being fit for occupancy or use.
- f. Whether the building is exposed to the elements such that deterioration of the building is occurring.
- g. Whether the building is boarded up or otherwise secured from unauthorized entry.
- h. Past efforts to rehabilitate the building and grounds.
- i. Whether those claiming an interest in the property have, prior to the filing of the petition, demonstrated a good-faith effort to restore the property to productive use.
- j. The presence of vermin, accumulation of debris, and uncut vegetation.
- k. The effort expended by the petitioning city to maintain the building and grounds.
- l. Past and current compliance with orders of the local housing or building code official.
- m. Any other evidence the court deems relevant."

See Iowa Code §657A.10A(3).

24. The Petitioner has documentation that supports its statement that the building located on the Property has been abandoned, is vacant and is dilapidated, and has sufficient evidence to support the considerations required by Iowa Code §657A.10A and/or evidence that all parties with an interest in the Property did not make a good faith effort to comply with an order of the local housing official within sixty (60) days after the filing of this Petition.

WHEREFORE, the Petitioner prays that:

- a) The Court enter an order that the matter be set for hearing no less than sixty (60) days after the filing of this Petition;
- b) Upon hearing, the Court determine that the Property is abandoned within the meaning of Iowa Code §657A.10A;
- c) That the Court enter judgment against the Respondents pursuant to Iowa Code §657A.10A of the Iowa Code awarding the title to the Property to the City of Muscatine, Iowa, free and clear of any claims, liens, or encumbrances held by the Respondents; and

d) Award such further relief as this Court deems appropriate under the circumstances.

Respectfully submitted,

BRICK GENTRY P.C.

By: /s/

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ATTORNEYS FOR CITY OF MUSCATINE

E-filed.

TRAIL SIGNAGE TOPICS & TRENDS

Bryan Schmid, Senior Planner

Bi-State Regional Commission

bschmid@bistateonline.org

309-793-6302 ext. 123

OVERVIEW

- National standards and best practices
- Local efforts
- Regulatory and usage signs



NATIONAL STANDARDS

MUTCD – Standards

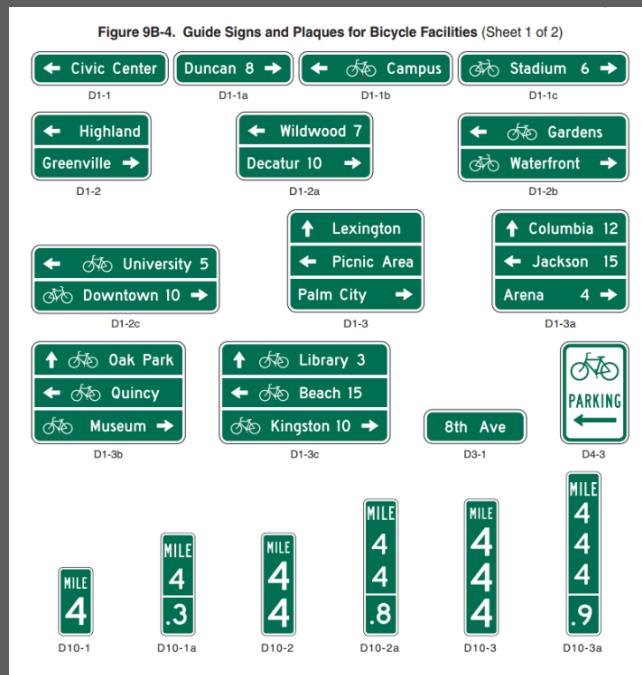
- Sets minimum standards and provides guidance
- Uniform signage across the nation
- Allows for experimentation and research

AASHTO & SUDAS – Guidance

- Used in conjunction w/ MUTCD
- SUDAS Iowa-specific; builds off AASHTO Guide

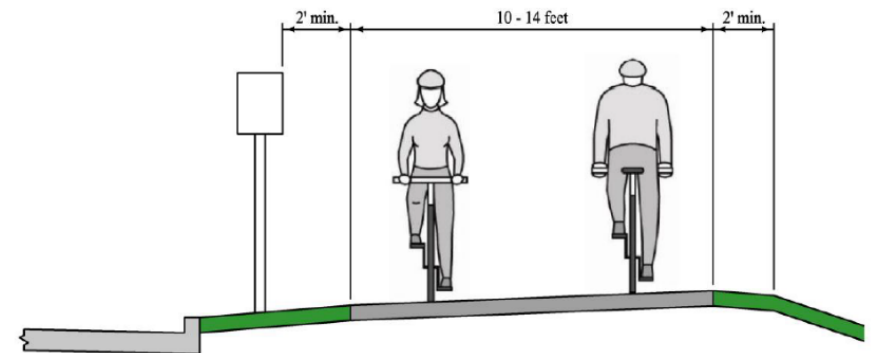
GUIDE SAMPLES

MUTCD



AASHTO/SUDAS

Figure 12B-2.01: Typical Cross-Section of Two-Way Shared Use Path on Independent Right-of-Way



Source: Adapted from *AASHTO Bike Guide* Exhibit 5.1

NACTO URBAN BIKEWAY DESIGN GUIDE

- Newer alternative to AASHTO and other guides
- Accepted by FHWA
- Provides required, recommended and optional treatments
- Types of Signs:
 - Confirmation signs
 - Turn signs
 - Decision signs
- Decision signs should include:
 - Destinations
 - Directional arrows
 - Distance
 - Travel time optional (10 mph bike speed)



Photo: Nate Evans, NACTO

<https://nacto.org/publication/urban-bikeway-design-guide>

LOCAL EFFORTS

- Trees Forever “Trails Visioning Design Report” (2015)
 - ID potential projects
 - Provide design concepts
 - Develop a plan for signage
 - Trailhead
 - Wayfinding
 - Information
 - Concepts for safety improvement
- Topics to consider locally:
 - Inclusion of ADT/MRT logos
 - Local branding design concepts and aesthetics
 - Sight lines at corners
- Unified Trail Ordinance

USAGE & WAYFINDING SIGNS



ETIQUETTE SIGNS

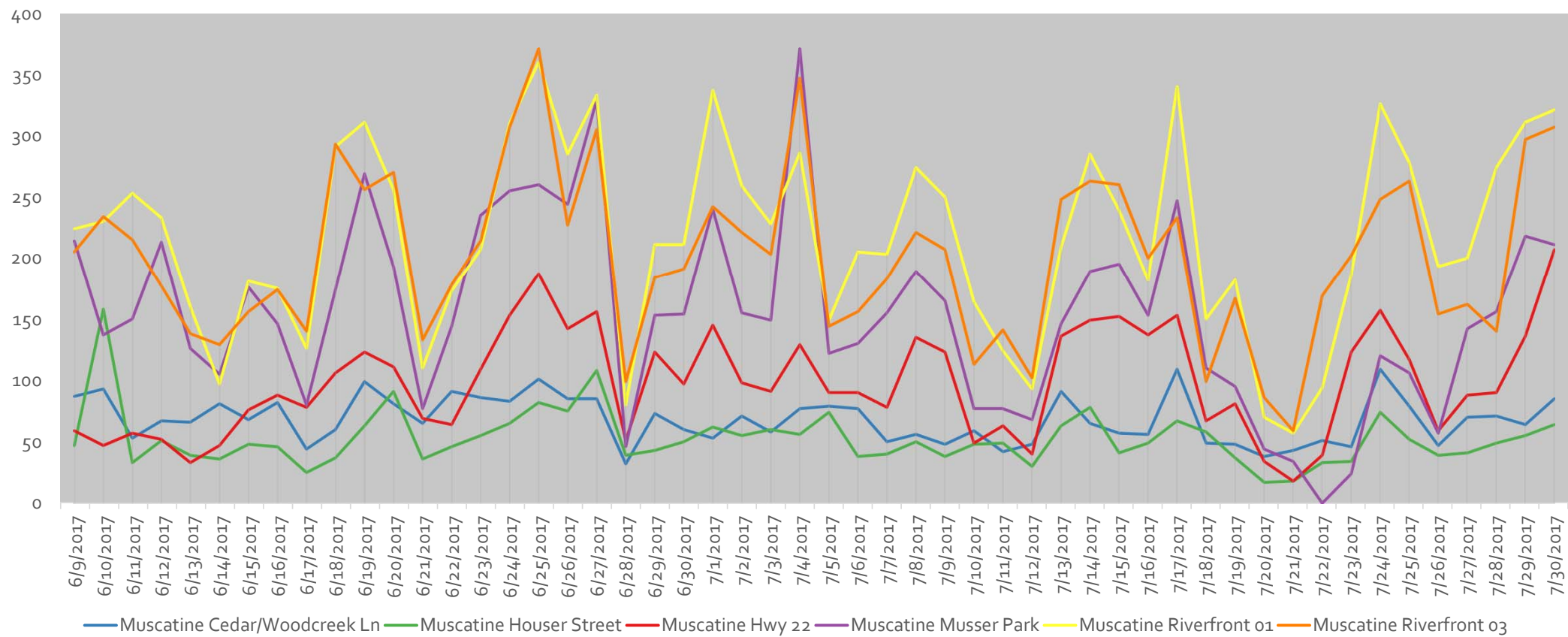


QUESTIONS



Bryan Schmid
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MUSCATINE TRAIL COUNTS





Muscatine, IA: This Brilliant Company Is Disrupting A \$200 Billion Industry



Cedar Rapids approves fireworks use ban, limits sales

City Council votes 6-1 on new restrictions



A semi truck advertises deals at a Bellino Fireworks stand located in a parking lot on Edgewood Road Southwest and Williams Boulevard Southwest in Cedar Rapids on Wednesday, July 5, 2017. The stand's manager said they sold nearly all of their inventory. (Rebecca F. Miller/The Gazette)

Aug 24, 2017 at 7:51 am | [Print View](#)

B.A. Morelli

CEDAR RAPIDS — Cedar Rapids has voted to ban use of fireworks after a noisy first-run with legalization turned

*The Gazette*

More stories from B.A.

sour.

The Cedar Rapids City Council at its meeting Tuesday voted 6-1, with Mayor Ron Corbett opposing, to ban fireworks use in city limits and restrict sales to industrial zones. Pat Shey and Justin Shields both supported the use ban, but were not present for the vote.

Council members spoke out in force after getting bombarded with angry emails and phone calls in recent weeks.

“This is a black and white issue,” Ann Poe said at the meeting. “I don’t know any way to enforce this other than a ban.”

Scott Overland said, “We clearly made an error two months ago,” and Susie Weinacht said the fireworks experiment went “beyond inconvenient.”

Tuesday’s vote instructs city staff to draft ordinances to put in effect the sentiment of the council. The ordinances would be voted on before the next statewide legal fireworks window around New Year’s Eve.

The vote symbolizes a 180-degree turnaround by elected officials who voted 5-2 on May 26 for the most lax rules allowed under a newly adopted state law, which legalized consumer fireworks sales and use from June 1 through July 8 and Dec. 10 to Jan. 3, generally from 9 a.m. to 10 p.m.

New rules in Cedar Rapids restrict sales locations to industrial zones after permitted vendors were allowed to set up in permanent structures and tents around the city. Cedar Rapids has large industrial areas in the south part of the city, as well as smaller pockets elsewhere. The city has 6,441 acres zoned industrial or 14 percent of the city’s total acreage.


Cedar Rapids is looking to Des Moines, which restricted sales locations this summer, for ways to tailor the rules. Des Moines officials, for example, restricted sales to industrial zones and also forbid fireworks in its downtown overlay district, said Emily Muhlbach, a spokeswoman for the Cedar Rapids community development department.

“Staff is exploring more specific policy options to further define which industrial areas are appropriate for the sale of fireworks, based on safety issues and the compatibility with surrounding land uses,” she said. “Another approach is a required separation distance from residential property.”


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Sales location rules will be refined at future City Council meetings.

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Residents quickly and vocally lashed out at elected officials after explosions boomed around the clock all across the city in June and early July.

Public safety officials pointed to a handful of fires and injuries, and hundreds of calls for service related to fireworks. Air quality and ground water samples turned up higher levels of toxins during periods of heavy fireworks use.

“Fireworks in densely populated communities put citizens at risk for more fires and injuries,” Fire Chief Mark English said.

An online petition signed by nearly 5,000 people called for a ban citing negative impact on military veterans with post-traumatic stress disorder, young children and pets; safety concerns; and air, water, and ground pollution. Some of those sentiments were voiced on Tuesday.

“It doesn’t make sense to me we have untrained amateurs shooting off explosives in neighborhoods where there are children and people with mental challenges and PTSD and regular citizens like me who weren’t prepared for war this summer,” said Diana Patten, of Cedar Rapids. “People untrained, unlicensed, with alcohol shooting off explosives makes no sense whatsoever.”

Plenty of people supported fireworks, enough to encourage the highest numbers of vendors in the state.

“It took us 80 years to get this legalized in Iowa, we shouldn’t just arbitrarily toss this out because a few people complained because they have PTSD,” said Virginia Harlow, who identified as a military veteran.

Elected officials acknowledged enforcement will be a challenge but said they have confidence in police. Fines will start at \$250 and they are unscheduled violations meaning offenders will have to appear before a judge, Cedar Rapids police Capt. Jeff Hembera told the council.

| Comments: (319) 339-3177; brian.morelli@thegazette.com

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Observer



Nadia Comaneci Is Completely Unrecognizable Today

Kiwi Report



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TruthFinder



Marie Osmond's Daughter Finally Confirms The Rumors

Worldation

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(The Gazette)

- **Letter: Some friendly advice for demonstrators** (The Gazette)

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COMMUNITY DEVELOPMENT

MEMORANDUM

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

To: Mayor and City Council Members
Cc: Gregg Mandsager, City Administrator
Dave Gobin, Community Development Director
From: Andrew Fangman, City Planner
Date: June 1, 2017
Re: Fireworks Regulations Ordinance

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 the 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. As such, the City Code needs to be amended to address this change in state law. Staff is proposing an amendment to the City Code which will regulate the sale and use of consumer fireworks. Please note that Council is being asked to consider waiving the second and third readings of the ordinance. This will require Council action to waive council rules. This action will be necessary because State law allows for the use and sale of fireworks to begin on June 1st, therefore final action by Council is needed on June 1st.

SF 489 gives the local jurisdiction very broad latitude in banning or limiting the use of consumer fireworks. Therefore, the first question that City Council must answer is if the use of consumer fireworks should be permitted.

SF 489 allows for the use of fireworks between June 1st through July 8th and December 10th through January 3rd. However, the City has the authority to shorten the period of time during which the use of fireworks is legal. At its last meeting, Council reached a consensus that this is an excessively long period of time to allow for the use of fireworks. That shortening the period of time during which they may be used would be a good way of better striking balance between the enjoyment of those desiring to use fireworks and those who find the use of fireworks by their neighbors to be a nuisance. Based on this direction, staff has prepared draft regulations that would restrict the use of fireworks to July 1st through July 8th and December 26th through January 3rd. This compromise will strike the best possible balance between those looking to legally enjoy the use of fireworks and those who are disturbed by the use of fireworks. It should be noted that as per state law the sale of fireworks will still be legal between June 1st through July 8th and December 10th through January 3rd.

"I remember Muscatine for its sunsets. I have never seen any
on either side of the ocean that equaled them" — Mark Twain

SF 489 is silent on the use of fireworks by minors. A survey of firework regulations in other municipalities located in states which have long allowed for the use of consumer fireworks shows that most prohibit the use of fireworks by unsupervised minors. Given the potential damage that the improper use of fireworks could do to health and property, this is a very sensible regulation to adopt. As such, the proposed fireworks regulations contain a provision that limits the use of fireworks by minors except when under direct adult supervision. It would also make it unlawful for any parent, guardian or other adult person having custody or control of any minor 17 years of age or younger to knowingly allow such minor to discharge fireworks in an unsupervised manner.

SF 489 is silent on the use of fireworks when a person is intoxicated or under the influence of a drug or narcotic. A survey of firework regulations in other municipalities located in states which have long allowed for the use of consumer fireworks shows that most prohibit the use of fireworks by persons showing visible signs of, or who are determined to be, intoxicated or under the influence of a drug or narcotic. Given the potential damage that the improper use of fireworks could do to health and property, this is a very sensible regulation to adopt. As such, the proposed regulations contain a prohibition on the use of fireworks by persons showing visible signs of, or who are determined to be, intoxicated or under the influence of a drug or narcotic.

The proposed regulations also make a person permitting the discharge of a fireworks device on their property responsible for their discharge and the consequences thereof. This provision will help with the enforcement of the regulations relating to the use of fireworks. In the past, it has been found that by the time the police arrive at the site of a fireworks complaint there is no way to determine which particular individual was responsible for the fireworks violations, despite there being able evidence that fireworks were being used in an unlawful manner. Establishing the property owner permitting the discharge of fireworks on their property owner as an additional liable party will help address this situation and also create an incentive for those permitting the discharge of fireworks on their property to ensure that it is done in a lawful and safe manner.

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.

SF 489 legalizes a previously illegal act and was only signed by the governor a couple of weeks prior to its effective date. City regulations regarding fireworks cannot be enacted any sooner than the same day that firework use becomes legal under state law and most community members will not be aware of the rules for the legal use of fireworks. To address this issue, the proposed regulations mandate that the City of Muscatine prepare a “fireworks use regulations informational pamphlet.” Said pamphlet shall detail all relevant regulations regarding the use of fireworks within the City of Muscatine. Said pamphlet shall be formatted in a manner that

allows for it to be legibly reproduced on an 8.5" by 11" piece of paper. A seller of fireworks shall distribute to each purchaser a copy of the fireworks use regulation informational pamphlet on an 8.5" by 11" piece of paper. It shall be the responsibility of the fireworks seller to reproduce all necessary copies of the fireworks use regulation informational pamphlet from an original copy provided by the City of Muscatine.

The City of Muscatine's 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.

The Planning and Zoning Commission at a special meeting on May 26th reviewed the issue of where the sale of fireworks should be permitted within the City of Muscatine. The Commission voted to recommend that Council amend the zoning ordinance to allow for the sale in all zoning districts in which retail sales are allowed by right, but that temporary structures selling fireworks should be subject to the following additional setback requirements.

- Property line: 20 feet
- Any residence: 150 feet
- Non-residential structure located on another parcel: 50 feet

The reason for this recommendation of additional setback requirements 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 a temporary structure such as a tent, further distance to mitigate the impact on surrounding residences is appropriate.

The proposed regulations also have the City of Muscatine establishing its own permit, site inspections on behalf of the State Fire Marshal, fire inspections, and related fees for the sale of consumer fireworks. For this new permit, the plan is to keep the Fire Department Permit fee the same as it is since it's already in the fee structure as \$200. The permit for fireworks is already located in International Fire Code 105.6.15 and Appendix B – Schedule of Permit and Licensing Requirements.

The on-site inspection is required prior to the State Fire Marshal issuing a retail seller license. This on-site inspection can be done by the State Fire Marshall or local jurisdiction. It makes sense that we do it so we are familiar with the permanent or temporary structure. So, the retailer seller license application and payment of the \$200 permit fee would trigger an on-site inspection prior to the State Fire Marshal issuing a license. When the seller has proof of insurance and a license, then a fire inspection of the permanent structure and/or temporary structure will occur. The fire inspection fees are already established by resolution and are \$45 for the inspection and no charge for the re-inspection. A second re-inspection fee will be an additional \$50 fee and a third re-inspection fee would be \$100.

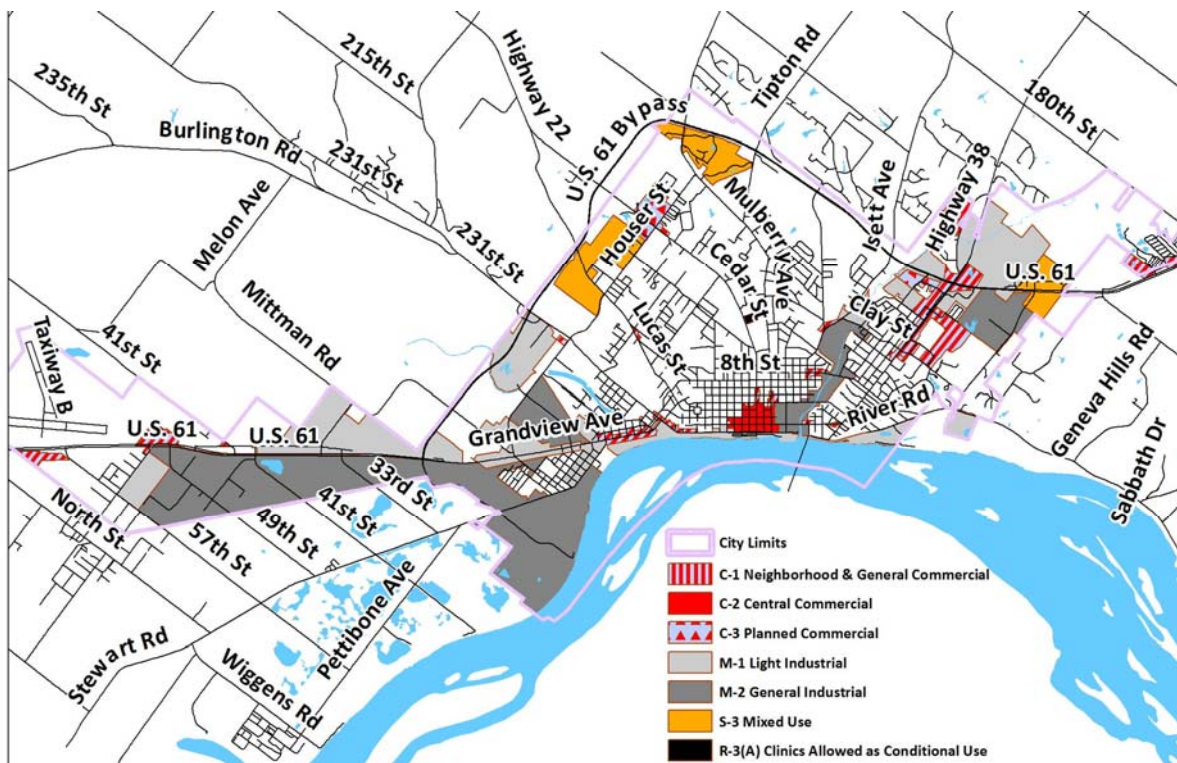
We will, along with other cities, need additional training on National Fire Protection Association 1124. This is the standard on the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles.

RECOMMENDATION:

Approve the proposed fireworks regulations ordinance as attached.

BACKUP INFORMATION:

- Map showing zoning districts in which retail sales is allowed as permitted use.
- Proposed fireworks regulations
- Ordinance adopting proposed fireworks regulations
- Minutes from the May 26th special Planning and Zoning Commission meeting
- Resolution amending Appendix B – Schedule of Permit and Licensing Requirements, of City Code, to establish the fee for the fireworks sales permit.



Zoning Districts in Which Retail Sales Is Allowed as Permitted Use

ORDINANCE NO. _____

AN ORDINANCE REGULATING THE USE, SALE, AND DISPLAY OF FIREWORKS

WHEREAS, near the end of the recently concluded legislative session the Iowa Legislature approved Senate File 489 which legalizes the sale and use of consumer fireworks; and

WHEREAS, Senate File 489 has left many important aspects of the sale and use of consumer fireworks up to local jurisdictions; and

WHEREAS, the City Code of Muscatine requires amendments to allow for the use and sale of fireworks as permitted under state law in a manner that is safe and which minimizes disturbances to the community; and

WHEREAS, the Planning and Zoning Commission on May 26, 2017 voted to recommend approval of revisions to Title 10, Zoning Ordinance in regards to where fireworks could be sold; and

WHEREAS, fireworks regulations are currently included in several sections of the City Code.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA:

SECTION 1.

Title 6, Chapter 3, Section 2 of the City Code for Fireworks; Explosives is hereby repealed and replaced with:

Title 6, Chapter 3, Section 2 Fireworks; Explosives:

The sale, use, and exploding of fireworks within the City are subject to the regulations contained within Title 15 Chapter 8 of the City Code.

SECTION 2.

Title 10, Chapter 15, Section 2, M-2 General Industrial District Conditional Uses, Item F Explosives manufacture and storage, is hereby amended to read:

Item F. Explosives manufacture or storage. For the purposes of this section the term explosives does not include first-class consumer fireworks and second-class consumer fireworks, as those terms are defined in 2017 Iowa Acts, Senate File 489, Section 3.

SECTION 3.

Title 15, Chapter 2, Section 4, Amendments Made to International Fire Code, Items A and B are hereby repealed and replaced with:

15-2-4 Amendments Made to the International Fire Code

The International Fire Code is amended and changed in the following respects:

- A. Delete Section 307 in its entirety (open burning)
- B. Delete Section 401 in its entirety (false reporting)

SECTION 4.

Title 15, is hereby amended to add a new Chapter 8 for Fireworks Sales, Discharging and Display. This chapter is shown in the attached Exhibit A.

SECTION 5.

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 6. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 7. This ordinance shall be in effect from and after the passage, approval and publication of this ordinance, as provided by law.

PASSED, APPROVED AND ADOPTED this 1st day of June, 2017.

By the City Council of the City of Muscatine, Iowa

Robert C. Bynum Jr., Mayor Pro Tem

Attest:

Gregg Mandsager, City Clerk

First and Final Reading: _____

Exhibit A – New Chapter 8 to Title 15

Chapter 8 – Fireworks Sales, Discharging, and Display

Sections

- 15-8-1 Purpose and Intent
- 15-8-2 Fireworks Discharging Regulations
- 15-8-3 Fireworks Sales Permit Required
- 15-8-4 Fireworks Sales Permit Issuance
- 15-8-5 Fireworks Sales Safety and Operational Standards
- 15-8-6 Violations
- 15-8-7 Fireworks Display
- 15-8-8 Definitions

15-8-1 Purpose and Intent

To allow for the use and sale of fireworks as permitted under state law in a manner that is safe and which minimizes disturbances to the community.

15-8-2 Fireworks Discharging Regulations

Fireworks shall only be discharged in a manner that is compliant with all of the following regulations.

A. General Regulations Regarding the Discharging of Fireworks

1. Any person discharging a fireworks device, or person permitting the discharge of a fireworks device on their property, assumes responsibility for its operation and the consequences thereof. No person shall discharge a fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.
2. Persons 17 years of age and younger shall not discharge fireworks except under the supervision of an adult. Supervision shall be adequate where the adult is within sight and sound of the minors during the discharge of the fireworks.
3. It shall be unlawful for any parent, guardian or other adult person having custody or control of any minor 17 years of age or younger to knowingly allow such minor to discharge fireworks in violation of the preceding subsection.
4. Fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

5. It shall be unlawful to alter, remove, or discharge components of a fireworks device from its intended method of discharging.
6. Sky lantern open flame devices are not permitted to be released within the city limits, except if tethered by a retrievable rope so the person discharging has control over the sky lantern.

B. Allowable Times for the Discharging of Fireworks

1. A person shall not use or explode consumer fireworks on days other than July 1 through July 8 and December 26 through January 3 of each year, all dates inclusive.
2. A person shall not use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:
 - a. Between the hours of 9:00 a.m. and 11:00 p.m. on a Saturday or a Sunday immediately preceding or following July 4 or December 31.
 - b. Between the hours of 9:00 a.m. and 11:00 p.m. on July 4.
 - c. Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.

C. Allowable Locations for the Discharging of Fireworks

1. A person shall only discharge a fireworks device on real property they own or on property where consent has been given.
2. Snakes, sparklers, or caps can be discharged in a public place, unless specifically prohibited by the entity owning the public place, so long as all trash, wrappers, and wires are properly disposed of.
3. No person shall light or cause to be lighted any fireworks or other combustible article within 300 feet of any location that has been permitted to sell fireworks.

- D.** This chapter does not prohibit the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This Chapter does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

15-8-3 Fireworks Sales and Operational Permit Required

There shall be no sale of fireworks within the corporate City Limits without a permit having been issued by representatives of the Fire Department and inspections performed. If applicable a transient merchant license as required by Chapter 10 of Title 5 shall also be obtained from the Finance Department.

15-8-4 Fireworks Sales and Operational Permit Issuance

Fireworks sales permits shall be issued in accordance with the following.

- A.** The following items shall be submitted with any application for a fireworks sales permit:
 - 1.** Proof of liability insurance that complies with the requirements set forth by the state fire marshal.
 - 2.** Site plan that demonstrates how all applicable portions of City Code, the National Fire Protection Association 1124 (2006 edition and amendments thereto) are being complied with.
 - 3.** Fees in accordance with the adopted fee schedule (Appendix B).
- B.** Proof of a valid permit or license issued from the state fire marshal shall be submitted prior to the start of sales.
- C.** Inspections

Any property, building, or premise whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the fire chief or their designee prior to engaging in fireworks sales. The fire chief or their designee shall cause an inspection to occur each selling period meeting the requirements of the National Fire Protection Association 1124 (2006 edition and amendments thereto) and the current fire code adopted by the City of Muscatine.

15-8-5 Fireworks Sales Safety and Operational Standards

All fireworks sales permit holders shall comply with the following safety and operational standards at all times.

A. Allowable Locations for the Sales of Fireworks

1. Zoning

Must be located within a zoning district that permits retail sales as an allowed use.

2. Required Setback for Temporary Structures

- a. Property Line: 20 feet
- b. Any Residence: 150 feet
- c. Non-residential structure on a different parcel: 50 feet
- d. Any structure on the same parcel: 20 feet
- e. Motor fuel dispensing station: 50 feet
- f. Retail propane dispensing station: 50 feet
- g. Motor fuel dispensing station: 50 feet
- h. Bulk fuel dispensing or bulk storage: 300 feet
- i. Storage of consumer fireworks: 20 feet
- j. Generator fuel storage: 20 feet
- k. Generator placement: 20 feet
- l. Cooking equipment: 20 feet
- m. Any open flame cooking equipment: 50 feet
- n. Any parking space: 20 feet

3. Fire Department Access:

All portion of the perimeter of a CFRS (Consumer Fireworks Retail Sales Facilities and Stores) must be located within 150 feet of a public way or an approved fire apparatus access.

B. Allowable Times for the Sales of Fireworks

Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code.

C. National Fire Protection Association (NFPA) 1124

All CFRSs (Consumer Fireworks Retail Sales Facilities and Stores) shall comply with all applicable provisions of “*NFPA 1124 Code for the Manufacture, Transportation, Storage,*

and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition” and any amendments thereto.

D. General Requirements

1. Smoking, open flame source, or matches shall not be located within 50 feet of where fireworks are sold.
 - a. Except that lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks sales is not the primary business.
 - b. Locations who engage in fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not removed within the store premises.
2. One or more signs reading "Fireworks-No Smoking" shall be displayed at all places where fireworks are stored or sold in letters not less than four inches in height.
3. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in a CFRS.
4. Signs shall be posted at all points of ingress and egress to and from the CFRS, stating no sales will be made to anyone under the age of 18.
5. A sign bearing the message, “Discharge of Consumer Fireworks is Prohibited at All Times within the City of Muscatine Except for July 1st through July 8th and December 26th through January 3rd, shall be posted at all points of ingress and egress to and from the CFRS. Such sign shall not count towards the limits of allowable signage provided for by Title 10 of the City Code.

6. Fireworks Use Regulations Informational Pamphlet

- a. The City of Muscatine shall prepare a “fireworks use regulations informational pamphlet.” Said pamphlet shall detail all relevant regulations regarding the use of fireworks within the City of Muscatine. Said pamphlet shall be formatted in a manner that allows for it to be legibly reproduced on an 8.5” by 11” piece of paper.
- b. A seller of fireworks shall distribute to each purchaser a copy of the fireworks use regulation informational pamphlet on an 8.5” by 11” piece of paper.

- c. It shall be the responsibility of the fireworks seller to reproduce all necessary copies of the fireworks use regulation informational pamphlet from an original copy provided by the City of Muscatine.
- 7. Flashing lights of any type are prohibited. All lighting shall be non-intermittent.
- 8. All signage must comply with Chapter 21 of Title 10 of the City Code.
- 9. A CFRS shall provide a minimum of five hard surfaced parking spaces in accordance with Title 10 of the City Code. No parking spaces mandated by Title 10 of the City Code, for other uses on the subject parcel, shall be counted towards fulfillment of this requirement.
- 10. All weeds and combustible materials shall be cleared from the location of the CFRS including a distance of at least 30 feet surrounding the CFRS.
- 11. All unsold stock and accompanying litter shall be removed from the location by 5:00 p.m. two days after the end of sales of fireworks.
- 12. All temporary structures shall be removed from the temporary location by 12:00 pm on the seventh day after the end of sales of fireworks, and all accompanying litter shall be cleared from said location by the said time and date.

15-8-6 Violations

- A. Any violation that would constitute a simple misdemeanor pursuant to Iowa Code section 727.2 shall be charged as a simple misdemeanor. Any other violation of this Chapter shall be considered a simple misdemeanor or municipal infraction as provided for in Title 1 of this Code.
- B. In addition to the penalties provided for in 15-8-6(A), any violation of the use provisions of this Chapter may also result in the confiscation or destruction of any fireworks or consumer fireworks.
- C. If in the judgment of the fire chief or building inspector, the construction of a permanent or temporary structure or the conduct of the operations therein do not conform to the provisions of this chapter, such officers or either of them, may order the stand immediately closed, and the permit to operate such stand shall then be suspended and/or revoked.

15-8-7 Fireworks Display

- A. The City may, upon application in writing to the City Council at least one week in advance of the last Regular City Council meeting prior to the date of the display, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator.
- B. **Bond/Insurance for Fireworks Display Required.**

The permittee shall furnish a bond or certificates of insurance in the amounts set out in the Schedule of Permit and Licensing Requirements in Appendix B to this Code of Ordinances for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or subcontractors.

15-8-8 Definitions

Consumer Fireworks: First-class consumer fireworks and second-class consumer fireworks, as those terms are defined in 2017 Iowa Acts, Senate File 489, Section 3.

Consumer Fireworks Retail Sales Facilities and Stores (CFRS): The portion of a retail sales store or facility, including the immediately adjacent aisles, where consumer fireworks are located for the purpose of retail display and sale to the public.

MINUTES
May 25, 2017 – 5:30 p.m.
Planning and Zoning Commission
Muscatine City Hall
City Council Chambers

Present: Jodi Hansen, Rochelle Conway, Wendi Ingram, Jordan Pahl and Gary Mowl.

Excused: John Sayles and Steve Nienhaus.

Staff: Andrew Fangman, City Planner, Community Development
Stephanie Oien, Office Coordinator, Community Development

Also: Fire Marshal Mike Hartman, Greg Jenkins, Matt Schweizer, Emily Bockelman, and Joel Kraushaar.

Chairperson Jodi Hansen opened the meeting at 5:30 p.m.

Zoning:

Fangman gave a brief presentation about the changes to state code regarding fireworks. These changes are effective June 1, 2017. He indicated that there are two items state code offers to local municipalities – should use be allowed per State Code, restricted, or not allowed; and where sales are allowed. He explained that, within this state law, cities have the option to limit or prohibit the use of fireworks devices, but they cannot prohibit sales.

The following were proposed changes to City Code:

- Use dates – July 1-8 and December 26 to January 3, which are more restrictive than State Code.
- Sale locations – Sales to be permitted in all zoning districts that allow retail sales.
- Additional setbacks
 - Property line: 20 feet
 - Any residence: 150 feet
 - Non-residential structure located on another parcel: 50 feet

Fangman noted that the State Fire Marshal's office has adopted National Fire Protection Association (NFPA) standard 1124, 2006 edition, as part of their regulations. City staff also intends to use this reference for regulation and enforcement.

Matt Schweizer, 1718 Pearlview Court, with Hy-Vee Mainstreet noted that doing nothing with the current zoning ordinance doesn't allow for much retail. Mr. Schweizer encouraged the Commission to consider the following:

- Request for zoning change allowing more retail sales area;
- Very limited time for sales and is a very temporary situation;
- Hy-Vee wants to sell, not use the fireworks devices;
- Hy-Vee has more stringent restrictions already, including 150-foot setbacks from their building and fencing;
- Non-profit groups may benefit from sales.

Emily Bockelman of Lone Tree was present to represent Jim Simmons, manager of Hy-Vee on Second Avenue. Ms. Bockelman seconded Mr. Schweizer's consideration and expanded on the non-profit benefit. She indicated that there was an opportunity for MCSA to get a large donation from a percentage of the sales. She also encouraged the Commission to expand sales to all retail zones.

Fire Marshal Mike Hartman stated that City staff was working on a compromise to best serve the community. Hartman noted that he supported the additional setback distances suggested by Fangman.

Commissioner Pahl asked how the proposed 150-foot setback from any residence measured up with the Hy-Vee Mainstreet site. Fangman pulled up MAGIC and demonstrated for those in attendance.

Commissioner Ingram expressed concerns about precautions that would be set for general protection. Hartman replied that NFPA 1124 had regulations for safety. He cited an example that tents cannot sell lighter unless they were in a sealed package.

Commissioner Hansen asked Hartman his opinion, as the fire marshal, of the proposed setbacks. Hartman responded that he believed they were appropriate and reasonable. Hansen asked if there were any thoughts about different setbacks from senior citizen homes. Fangman replied that he was treating them as a residence unless the Commission would ask for something different.

Joel Kraushaar, 3413 Baton Rouge Road, asked for clarification on the setbacks. He questioned if the 50-feet from non-residential structures would be in addition to the 20-foot setback from the property line. Fangman replied that the proposed setbacks would be measured from the edge of the structure to the setback item referenced.

Commissioner Pahl stated that she believed the 150-foot setback was a little excessive. Commissioners Mowl and Conway noted they approved the proposed setbacks.

Fangman asked Commissioners to keep in mind that most of the structures that will be seen will not be permanent structures and this was a seasonal sale. As a result, the setbacks and code changes could be adjusted for the next year.

Greg Jenkins, Muscatine Chamber of Commerce, questioned what are the required setbacks for a gas station to a residence. Fangman responded that he did not know those readily and that was a question more suitable to the building division staff. He added that there are additional safety regulations built into permanent structures. Hartman noted that there are a lot more regulations for temporary structures selling fireworks devices. Jenkins added that he wanted the City to be liberal to keep sales in Muscatine.

Commissioner Hansen questioned how strip malls would be handled if sales were extended to all retail zones. Hartman answered that NFPA 1124 would require additional fire controls/preventative measures to be in place. He added that the fire marshal will inspect and permit sales. He noted that some paid fire departments, including Muscatine, will act as an extension for the state fire marshal's office and conduct inspections prior to permitting.

Mowl motioned to accept the proposed change to allow sales in all zoning districts that permit retail sales and proposed setbacks, as listed above; seconded by Conway. All ayes, motioned carried.

Adjourn.

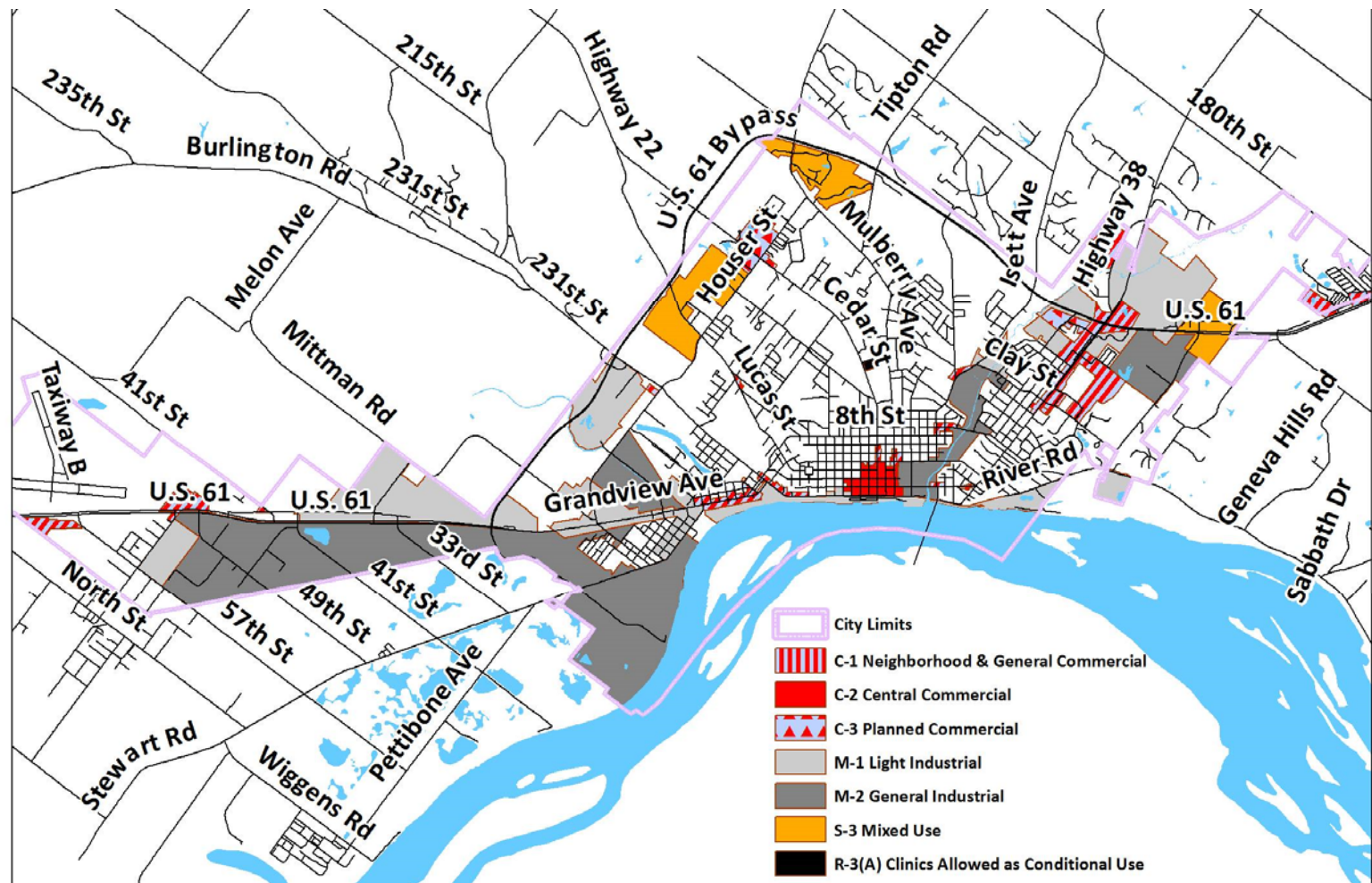
Respectfully Submitted,

Andrew Fangman, Secretary
City Planner

ATTEST:

Jodi Hansen, Chairperson
Planning & Zoning Commission

Zoning District Which Allow for Retail Sales



Setbacks for Temporary Structures from Which Fireworks are Being Sold

- Any structure on the same parcel: 20 feet
- Motor fuel dispensing station: 50 feet
- Retail propane dispensing station: 50 feet
- Motor fuel dispensing station: 50 feet
- Bulk fuel dispensing or bulk storage: 300 feet
- Storage of consumer fireworks: 20 feet
- Generator fuel storage: 20 feet
- Generator placement: 20 feet
- Cooking equipment: 20 feet
- Any open flame cooking equipment: 50 feet
- Any parking space: 20 feet

Setbacks for Temporary Structures from Which Fireworks are Being Sold

- Property Line: 20 feet
- Any Residence: 150 feet
- Non-residential structure on a different parcel: 50 feet

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. In order for staff to prepare an amendment to the City Code regarding the use and sale of consumer fireworks within the City of Muscatine, a number of questions shown below in bold and italics must be answered by Council. With this direction staff will bring at the next Council meeting an amendment to City Code which will regulate the sale and use of consumer fireworks.

Please note that for any changes being suggested we will be asking Council to consider waiving the second and third readings of the ordinance. This will require Council action to waive council rules. This action will be necessary because State law allows for the use and sale of fireworks to begin on June 1st, therefore final action by Council is needed on June 1st.

Should the use of consumer fireworks be allowed within the City of Muscatine?

SF 489 gives local jurisdiction very broad latitude in banning or limiting the use of consumer fireworks. Therefore, the first question that City Council must answer is if the use of consumer fireworks should be permitted. Staff's recommendation is that use of consumer fireworks continue to be prohibited within the City of Muscatine.

The use and sale of fireworks has been illegal in Iowa since 1938 when the Legislature acted in response to multiple Iowa firework tragedies. But, this has changed now that Governor Branstad signed SF489 last Tuesday. According to NFPA, in 2013 fireworks caused an estimated 15,600 reported fires in the U.S., including 1,400 structure fires, 200 vehicle fires, and 14,000 outside and other fires.

Most firework related injuries happen at family or private parties and roughly half of all injuries are to children under the age of 16. The most common place for injuries from fireworks is to hands, eyes and face. Firework related injuries and deaths occur from misuse, such as holding fireworks in hands, being too close to lit fireworks, setting fireworks improperly, mischief, igniting fireworks too close to someone, and/or dismantling fireworks.

Other related injuries are from malfunctions, such as errant flight path, tip-over, early ignition, and/or blow out. Concerns from Public Safety Associations and Healthcare associations include increased fires, increased call volume for emergency responders and emergency rooms, law enforcement and citizens mistaking fireworks for gunfire, increased injuries to our citizens we

are here to protect, problems with pets reacting to fireworks noise, and issues impacting our veterans with PTSD. It's best to keep fireworks to the licensed professionals.

However If council should choose to allow for the use of consumer fireworks, there are a number of decisions that must be made regarding the manner in which fireworks may be used. SF 489 gives the City broad authority to regulate these matters.

During what period of time should the use of fireworks be allowed?

SF 489 allows for the use of fireworks between June 1st and July 8th and December 10st through January 3rd. However, the City has the authority to shorten the period of time during which the use of fireworks is legal. Staff is of the opinion that this an excessively long period of time to allow for the use of fireworks and that if Council does decide to allow for the use of fireworks, that shortening the period of time during which they may be used would be a good way of better striking balance between the enjoyment of those desiring to use fireworks and those who find the use of fireworks by their neighbors to be a nuisance. Keep in mind that enforcement of fireworks is difficult at best. You have to have a witness willing to testify in court or an officer observing the violation. In the past we have not written many citations to citizens unless it was a disturbing the peace charge where they were told to cease firing fireworks. Historically the Police Department deals with fireworks around the 4th of July for a few days then it normally is not much of an issue the rest of the year.

Between which hours should the use of fireworks be allowed?

SF 489 allows for the use of fireworks between 9:00 a.m. and 10:00 p.m. except that on July 4th and December 31st and the immediately following and proceeding Saturdays and Sundays fireworks may be used to 11:00 p.m. Additionally, fireworks may be used between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day. Staff recommends that if council does decide to permit the use of fireworks that the use of fireworks past 10:00 p.m. be limited to 4th of July and New Year's Eve/Day. This will also help strike balance between the enjoyment of those desiring to use fireworks and those who find the use of fireworks by their neighbors to be a nuisance by limiting the number of days which they can be used late at night.

Should the unsupervised use of fireworks be minors be prohibited?

SF 489 is silent on the use of fireworks by minors. A survey of firework regulations in other municipalities located in states which have long allowed for the use of consumer fireworks shows that most prohibit the use of fireworks by unsupervised minors. Given the potential damage that the improper use of fireworks could do to health and property this is very sensible regulation to adopt, should council decided to permit the use of fireworks. Fireworks should be used by minors only when under direct adult supervision

Should the use of fireworks by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic be prohibited?

SF 489 is silent on this issue. A survey of firework regulations in other municipalities located in states which have long allowed for the use of consumer fireworks shows that most prohibit the use of fireworks by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic. Given the potential damage that the improper use of fireworks could do to health and property this is very sensible regulation to adopt, should council decide to permit the use of fireworks.

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. Does the council wish to allow the sale of fireworks to 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 an existing residential structure?

If council does decide 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 a 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 that Council decides to allow for the sale of consumer fireworks in, should a conditional use permit also be required. Conditional use permits are approved by the Zoning Board 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.

Should the City of Muscatine establish its own permit, inspections, and related fees for the sale of consumer fireworks?

City staff recommends that the City of Muscatine establish its own permit, inspections, and related fees for the sale of consumer fireworks and that for this new fireworks sales permit to keep the Fire Department Permit fee the same as it is since it's already in the fee structure as \$200. The permit for fireworks is already located in International Fire Code 105.6.15.

The inspection fee will technically be what the state is calling the on-site inspection. This is required by the State Fire Marshall prior to them issuing a license. This can be done by the State Fire Marshall or local jurisdiction. It makes sense that we do it so we are familiar with the permanent or temporary structure. So, the application and \$ 200.00 permit fee, when filled out and paid, would trigger the on-site inspection.

We will, along with other cities, need additional training on National Fire Protection Association 1124. This is the standard on the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles.

