
MEMORANDUM



TO: Mayor and Council

FROM: Jason Thompson, Director
Department of Planning & Development

DATE: May 23, 2016

CASE NO.: #ZOA 16-01

RE: Zoning Ordinance Text Amendment for Consumer Fireworks Retail Sales Facilities and Consumer Fireworks Retail Sales Stands

On January 25, 2016 the Mayor and Council approved RES 2016-01 to provide for a moratorium on the acceptance of applications or issuance of any permits involving the sale or distribution of consumer fireworks in the City to await the changes to the State's Consumer Fireworks ordinance and to allow the Planning Department to conduct a study to investigate necessary changes to the Municipal Code of Snellville and Zoning Ordinance. On April 11th the Mayor and Council approved RES 2016-04 extending the moratorium until June 30, 2016.

HB 727 has been approved by both sides of the Georgia Assembly and was signed into law by Governor Deal on April 26, 2015. HB 727 is a clean-up bill for last sessions HB 110 which became law in 2015 allowing the sale and usage of consumer fireworks. HB 727 establishes local control provisions that allow local governments to enact or enforce local noise ordinances as a way to restrict the usage of fireworks.

The legislation prohibits the sale of fireworks to any persons under 18 years of age and also prohibits the use of fireworks within the right-of-way of any public roadway. The bill allows fireworks to be detonated between the hours of 10:00 am and 9:00 pm. Additionally, the use of fireworks between the hours of 9:01 pm and 12:00 midnight may be restricted by enacting a local noise ordinance. On January 1, July 3, July 4, and December 31 of each year, fireworks may be discharged after 9:00 pm until 11:59 pm. And on January 1 of each year beginning at 12:00 midnight until 1:00 am.

HB 727 also provides for the sale of consumer fireworks in retail 'stores' (such as Wal-Mart, Sam's Club, Target, Kroger, Publix, Ollie's, At Home, Home Goods, etc.); provided however, that such term shall only include such buildings with at least 4,000 sq. ft. of retail display space and no more than 25% of such retail display space is used for consumer fireworks and items or products.

The use of fireworks would be prohibited under the following conditions: Usage within 100 yards of an electric plant, water treatment plant or a facility engaged in the sale of flammable liquids or gases; Usage within 100 yards of an electric substation or jail or prison; Usage within 100 yards of a hospital, nursing home or healthcare facility; Usage by any person under the influence of alcohol or drugs; and Usage within any park, historic site or recreational area owned by a governing authority without issuance of special use permit. The fee for such permit should not exceed \$100.00.

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The sale, use and ignition of fireworks are limited persons 18 years of age or older. Additionally, the retail sale of fireworks is permitted if the retail stand is within 1,000 feet of a fire hydrant or fire department. A license is required for fireworks distributed and ignited for the purpose of a public exhibition.

In an effort to allow distributors of consumer fireworks sufficient time to prepare for the upcoming July 4th Holiday, Planning Department staff has prepared a Zoning Ordinance text amendment to regulate the location of these uses including standards for certain locations. The proposed text amendment includes prohibiting consumer fireworks retail sales facilities, but not consumer fireworks retail sales stands, within the Town Center Overlay District.

Any person, firm, corporation, association or partnership seeking a permit from the City for a consumer fireworks retail sales facility or consumer fireworks retail sales stand must first obtain a license from the Safety Fire Commissioner of the State of Georgia.

After review of HB 727, we have modified the zoning ordinance to obtain common definitions used by the State for these types of facilities. The proposed text amendment affects several sections of the Zoning Ordinance, which are highlighted below:

- Definitions added that are consistent with State regulations.
- The sale of consumer fireworks in retail ‘stores’ (i.e. Wal-Mart, Sam’s Club, Target, Kroger, Publix, Ollie’s, At Home, Home Goods, etc.) shall be allowed as accessory use within the BG District, provided the building is classified as a mercantile occupancy that contains a variety of merchandise and that is not used for primarily for the retail sales of consumer fireworks and that such term shall only include such buildings with at least 4,000 sq. ft. of retail display space and no more than 25% of such retail display space is used for consumer fireworks and other sparkling or nonexplosive items.
- Consumer fireworks retail sales facilities (standalone and those within multi-tenant centers) are prohibited within the Town Center Overlay District. While consumer fireworks retail sales stands shall be allowed in the Town Center Overlay District as a temporary use, subject to the Temporary Use Permit requirements of Sec. 9.9(1)(D) of the Zoning Ordinance.
- Consumer fireworks retail sales stands shall be allowed as a temporary use within the zoning districts that allowed the retail fireworks tent sales in the past. HB 727 prohibits consumer fireworks retail sales from any tent, canopy, or membrane structure; therefore, these temporary sales events will now be in stands as defined by NFPA 1124.
- Single-tenant/user standalone building consumer firework retail sales facilities shall be allowed as a principal permitted use in the BG (General Business) District provided:
 - (a) Property is located within the Corridor Overlay District boundary.
 - (b) Not to exceed more than one (1) location per State licensed distributor within the City.

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- (c) No consumer fireworks retail sales facility (located in a single-tenant/user standalone building) shall be permitted or operated within 1,500 feet of any standalone consumer fireworks retail sales facility or consumer fireworks retail sales facility located in a multi-tenant building/shopping center. For purposes of this requirement, distance shall be measured by the most direct route of travel on ground and shall be measured in the following manner:
 - (1) From the main entrance of the proposed consumer fireworks retail sales facility (located in a single-tenant/user standalone building);
 - (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
 - (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
 - (4) To the main entrance of the existing establishment identified in (c) above.
- And, consumer fireworks retail sales facilities shall be allowed as a principal permitted use in the BG (General Business) District within multi-tenant shopping centers containing three or more tenant spaces provided:
 - a. Property is located within the Corridor Overlay District boundary.
 - b. The leased tenant space for the consumer fireworks retail sales facility does not exceed 5,000 sq. ft.
 - c. No consumer fireworks retail sales facility (located in a multi-tenant building/shopping center) shall be permitted or operated within 1,500 feet of any standalone consumer fireworks retail sales facility or consumer fireworks retail sales facility located in a multi-tenant building/shopping center. For purposes of this requirement, distance shall be measured by the most direct route of travel on ground and shall be measured in the following manner:
 - (1) From the main entrance of the proposed consumer fireworks retail sales facility (located in a single-tenant/user standalone building);
 - (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
 - (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
 - (4) To the main entrance of the existing establishment identified in (c) above.
 - d. The property shall meet the City's off-street parking requirements for all existing and new uses.
 - e. Applicant must permit conforming non-temporary wall signage for the building storefront for the duration of the lease period.

The proposed text amendment will allow these uses the opportunity to occupy some of the vacant buildings and tenant spaces that exist today along the Highway 78 commercial corridor, while offering protection within the Town Center Overlay District.

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And, by limiting the size of tenant spaces to not exceed 5,000 sq. ft., this will eliminate any negative effect of having this type of use in a traditional shopping center with three or more total tenants. The temporary sales of consumer fireworks will continue as before with the temporary use permit requirements regulating seasonal sales.

PLANNING COMMISSION UPDATE:

On April 26, 2016 the proposed amendments were presented to the Planning Commission for consideration and public hearing. By a unanimous (5-0) vote, the Planning Commission recommended approval.

MAY 9, 2016 UPDATE:

After discussions with Mayor Tom Witts, City Attorney Tony Powell, and City Manager Butch Sanders on the proposed amendments, Sec. 9.10 BG (General Business) District was revised to allow consumer fireworks retail sales facilities *only* within the Corridor Overlay District boundary for standalone locations and locations within multi-tenant buildings/shopping centers).

However, the temporary consumer fireworks retail sales *stands* would be allowed in areas outside the Corridor Overlay District including the Town Center Overlay District, but only as a temporary use not to exceed 20-days per period with two periods per year (New Year's Holiday and the July 4th Holiday).

ADDITIONAL CONSIDERATIONS:

Although not part of the proposed Zoning Ordinance Text Amendment, the Mayor and Council may also consider:

- (1) Amending the City Code to require a Special Use Permit from the Mayor and Council for any use or ignition of consumer fireworks within any City park, historic site, recreation area or other property which is owned or operated by, for, or under the control of the City of Snellville.
- (2) Amending the City of Snellville Fee Schedule for:
 - (a) Special Use Permit referenced in item (1) above (not to exceed \$100.00 per HB 727).