

**Bill No. 3856, an Ordinance Amending the Municipal Code of the City of Wentzville, Missouri, a portion of Title II – Public Health, Safety And Welfare, Chapter 210 – Offenses, Article XV – Fireworks, Section 210.690 And Title IV – Land Use, Chapter 405 – Zoning Regulations, Article V Supplementary District Regulations, Section 405.220.D, Related To Sale And Discharge Of Fireworks, and Matters Related Thereto 16-111-PZ.**

**WHEREAS**, the City of Wentzville, Missouri (the "City") regulates the sale and discharge of fireworks pursuant to Section 210.690 of the Municipal Code; and

**WHEREAS**, the City regulates the Zoning within the City pursuant to Chapter 405 of the Municipal Code; and

**WHEREAS**, pursuant to Section 405.220.D of the Municipal Code, the City regulates temporary land uses and adopts of criteria for the use of land, coverage/area of structures permitted, and retrofit of land in commercial and industrially zoned areas of the City utilized for temporary land uses; and

**WHEREAS**, the City desires to provide residents the ability to purchase, and entrepreneurs the opportunity to establish temporary locations for the sale of fireworks on commercially or industrially zoned lands in the City for related activities under the standards of this ordinance; and

**WHEREAS**, in order to ensure coordination with the Wentzville Fire Protection District, and in the interest of the City's residents, the City will require the approved vendor checklist signed by the Wentzville Fire Protection District prior to the issuance of any City Temporary Use Permit; and

**WHEREAS**, that after proper notice in accordance with applicable legal provisions, a public hearing was held in regards to the proposed new regulations, including in conformance with all requirements of the City Zoning Code, by the City's Planning and Zoning Commission (the "Commission") on December 6, 2016. The Commission made a recommendation to the Board of Aldermen (the "Board") that the Board approve the new regulations; and

**WHEREAS**, the Board, after careful and due deliberation, following a duly noticed public hearing was held in regards to the proposed new regulations, including in conformance with all requirements of the City Zoning Code, on December 14, 2016, has concluded that the proposed regulations are desired and necessary and accordingly would be in the interests of the health, safety and welfare of the citizens of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI as follows:**

**Section 1:** The definition of "Fireworks" as contained in Subsection A of Section 210.690 of Title II Public Health, Safety and Welfare, Chapter 210 Offenses, Article XV Fireworks of the

Municipal Code regulating Sale and Discharge of Fireworks is hereby amended to read as follows:

## **FIREWORKS**

Any explosive composition, substance, combination of substances, device or article designed for the purpose of producing a visible or audible effect of a temporary exhibition or entertainment nature by explosion, combustion, deflagration, detonation, report, shooting a projectile into the air, or producing an open flame and shall include, but not be limited to, firecrackers, torpedoes, sky rockets, Roman candles, missiles, pinwheels, helicopters, reloadable tube devices, comets, mines and shells, blank cartridges, toy cannons in which explosives are used, and the type of balloons which require fire underneath to propel the same. The term "fireworks" shall exclude snake or glow worm pellets, smoke devices, snap pops or bang snaps, trick noisemakers known as party poppers, and sparklers, and shall further exclude toy gun paper or plastic caps which contain less than 16.25 milligrams (0.25 of a grain) of explosive mixture, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion.

**Section 2:** Subsection C of Section 210.690 of Title II Public Health, Safety and Welfare, Chapter 210 Offenses, Article XV Fireworks of the Municipal Code regulating Sale and Discharge of Fireworks is hereby amended to read as follows:

**C. Sales Of Fireworks.** It shall be unlawful for any person to construct a retail display or to sell, offer for sale, or possess for the purpose of sale, any fireworks within the City except as expressly provided in Section 405.220.D.8 of this Code. This Section does not apply to the storage of special fireworks by any person holding a permit for public displays as provided in Section K of this Section.

**Section 3:** Subsection D of Section 405.220 of Title IV Land Use, Chapter 405 Zoning Regulations, Article V Supplementary District Regulations of the Municipal Code regulating Temporary Uses is hereby amended to include in the Municipal Code a new Subsection 8, with new text to read as follows:

**8. Fireworks Stands.** Subject to the general requirements of this Section and the requirements and conditions of this Subsection D.8, sales of fireworks now or hereafter classified as "1.4G Class C Common Fireworks" by the United States Department of Transportation at fireworks stands located in "C-2", "C-3", "I-1" or "I-2" Zoning Districts as defined in Chapter 405 of the City of Wentzville Municipal Code shall be permitted for a period of June 25 through July 8 each year. Any such sale of fireworks and operation of a fireworks stand shall be subject to all of the following conditions:

- A. It shall be unlawful for any person to sell, offer to sell or expose for sale any fireworks of any type whatsoever within the City without first having obtained a "fireworks stand" license for each location at which fireworks are sold or offered for sale from the Community Development Department; provided however, that this Section shall not apply to the sale of fireworks in wholesale lots from a permanent business location that complies with all zoning requirements for such permanent business operation.



- B. The Community Development Department is authorized to issue to any person a "fireworks stand" license to permit sales of fireworks now or hereafter classified as "1.4G Class C Common Fireworks" by the United States Department of Transportation. Licenses shall be issued for fireworks stands located only in "C-2", "C-3", "I-1" or "I-2" Zoning Districts as defined in Chapter 405 of the City of Wentzville Municipal Code or other similar zoning of St. Charles County on property which has been annexed by the City but has not received a zoning designation by the City.
- C. For each separate proposed location for fireworks sales, an application for a "fireworks stand" license, which may be obtained from the Community Development Department, shall be submitted to the Department by May 1 and shall include the following:
1. A permit fee of \$5,000 for each proposed location for fireworks sales.
  2. A written statement that the applicant agrees to comply strictly with the terms of this Chapter, the laws of the State of Missouri, St. Charles County and the City of Wentzville, Missouri.
  3. A cash deposit, irrevocable letter of credit or a surety bond made payable to the City of Wentzville, Missouri, in the amount of \$3,000 for each location to be operated by the applicant shall be submitted. Such deposit, letter or bond shall ensure compliance with the provisions of this Section, including, but not limited to, the removal of the stand, provisions for temporary electrical service including the removal of any poles set for power supply or lighting purposes and the cleaning and restoration of the site upon which it was located in accordance with the provisions of this Section. In the event the licensee does not comply with the provisions of this Section or does not remove the stand or restore the site as required, the City may do so or cause the same to be done and the reasonable cost thereof shall be charged against the licensee and the deposit, letter of credit or surety bond.
  4. A Site Plan showing the following:
    - a. Address or site location;
    - b. Property owner authorization and operator names, addresses and phone numbers;
    - c. Size of the lot and tent, including locations depicted of all tent entry/exit locations;
    - d. Location of the tent(s) in relation to property lines, including all other structures or equipment including trailers and storage units located on the lot;
    - e. Location of proposed access and all existing driveway entrances and temporary parking lot areas;
    - f. Location of required restroom facilities (a minimum of one portable facility on site is required);
    - g. Location of required dumpsters (a minimum of one two yard dumpster for a location having 1,000 square feet or less of sales area and a minimum of two - two yard dumpsters or one - four yard dumpster for a location having more than 1,000 square feet of sales area);
    - h. Location of required on-site, off-street customer parking spaces (a minimum of six spaces per 1,000 square feet of sales area is required);
    - i. Location of nearest fire hydrant;

- j. Location depicted on the site plan of all storage containers for fireworks (Section D.3 of these requirements);
  - i. An electrical layout showing the location of power and all outlets/lighting provided;
  - k. Proof of a valid Missouri State sales tax number and a letter of "No Tax Due" from the Missouri Department of Revenue;
  - l. Submittal of the flyer to be used by the stand operator as required by Section D.5 of this Section to be distributed to all purchasers of fireworks from the stand; and
  - m. Other information as may be required by the City to ensure public health and safety.
5. An electrical inspection, associated with this Temporary Use Permit must be obtained from the Department of Community Development. All electrical work including generators must be performed by an electrician licensed with St. Charles County. Firework stands are required to have underground electric supply lines.
6. A certificate of flame resistance must be submitted for each tent and a completed Fireworks Seasonal Retailer Inspection Survey shall be obtained and completed by the Wentzville Fire Protection District.
7. Approval of the driveway entrance and approval of the construction of any temporary surfacing for a parking lot from the Department of Public Works are required if a new driveway or temporary surfacing (defined as aggregate, asphalt millings, or other approved material used to cover the ground surface for the purpose of temporarily improving the ground surface to better enable it to serve vehicular or foot traffic) is to be installed. These approvals must address the following:
- a. If a vertical curb is present at the entrance location, a concrete approach may be constructed and left in place to the right-of-way line. If an approach is not constructed, the existing curb must be removed prior to use of the parking lot and replaced within 60 days of the removal. Access management standards of the City shall apply to any new curb cut access locations.
  - b. Temporary parking is permitted for no more than 30 consecutive calendar days and the construction of the parking facility must not begin more than 14 calendar days before the beginning of the intended use.
  - c. No portion of City-owned right-of-way shall be surfaced and a minimum of a 10 foot parking setback from the right-of-way shall be provided.
  - d. Where used, temporary paving material shall be removed and vegetation re-established on the site to return the property to substantially the same condition as it was prior to the temporary use, within 60 calendar days of the final date of fireworks sales.
  - e. In addition to the requirements of Section C.3, where temporary surfacing material is used, a cash deposit, irrevocable letter of credit or a surety bond made payable to the City of Wentzville, Missouri, will be required by the Director of Public Works or his/her designee. The security should be in an amount equal to the amount required to perform the reparative measures described in this Section, based on an estimate approved by the Director of Public Works or his/her designee. The security shall be subject to the condition that the reparative measures (actions taken to return disturbed land to the



condition and appearance that existed before the temporary use) be performed within the first 60 days following the intended usage of the temporary facility as indicated on the temporary parking lot application. The security shall be held by the City for a 60 day period after which it will be forfeited to the City if reparative measures are not complete. If the reparative measures are not completed within the specified time, the City may use the funds from the security or any necessary portion thereof to complete the reparative measures. If the security is inadequate to pay for the costs of the reparative measures, the City shall recover the balance from the property owner or applicant.

- f. Each application for construction of a temporary parking lot or new entrance shall include the following: a sketch showing the property dimensions, parking lot dimensions, entrance locations and dimensions and color photographs (a minimum of six) of the site to depict the condition of the site before any construction of parking facilities or installation of tents. Parking space dimensions and aisle width shall be compliant with City standards in Article VII Off Street Parking and Loading Requirements.

8. A Certificate of Occupancy for any tent or structure from the Department of Community Development shall be required, and only issued upon field inspection/verification of compliance with these standards including the submittal of inspection approvals from Wentzville Fire Protection District, and State of Missouri fireworks stand license.

D. The following standards shall be used for the review of any application for fireworks stand license and shall apply to the operation of the facility:

1. Structures from which fireworks are to be sold or stored shall not be located within 100 feet of any permanent structure or building, public park, swimming pool or public or private playground.
2. Structures from which fireworks are sold or stored shall not be located within 100 feet of any structure in which petroleum products are sold or dispensed in any manner other than in closed containers.
3. A maximum of two semi-truck storage trailers or the equivalent area of trailer storage as determined by the Fire Marshal shall be allowed, per location. Such trailers shall maintain a minimum of 10 foot separation, have DOT labels on them and must be marked "EMPTY" with four inch letters when all contents are removed.
4. All weeds and combustible materials shall be cleared from any sales location including a distance of at least 25 feet surrounding the sales location.
5. A sign bearing the message "Discharge of Fireworks is Prohibited at All Times Within the City Limits of the City of Wentzville Except Between the Hours of 12:00 P.M. and 11:00 P.M. on July 3 and July 4" in letters at least three inches tall shall be conspicuously displayed at each sales location. Such sign shall not count towards the limits of allowable signage provided for by this Section. Additionally, the operator shall distribute to each purchaser of fireworks a flyer of at least 24 square inches containing the statement: "Per Municipal Code Section 210.690.D.2, Discharge of Consumer Fireworks Within the City of Wentzville is Prohibited Except Between the Hours of 12:00 P.M. and 11:00 P.M. on July 3 and July 4.

Violators may be punished by a fine up to \$500 or up to three months imprisonment or both." Such written statement shall be in at least 14-point font.

6. Fireworks stands shall comply with the provisions of the currently adopted Building Code relative to temporary structures. All stands shall be erected in a manner that will reasonably ensure the safety of all occupants, patrons and surrounding property. A minimum three foot wide, unobstructed aisle running the length of the stand, inside and behind the sales counter, shall be provided.
7. Each stand up to 24 feet in length must have at least two exits. Each stand in excess of 24 feet must have at least three exits. Exit locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.
8. Each stand shall maintain a 2½ gallon, 2A rated water-pressure type fire extinguisher or an ABC minimum 2A:10BC rated fire extinguisher near each exit and such extinguishers shall be kept in good working order and shall be easily accessible.
9. Signage shall not be subject to the provisions of Chapter 405 but shall meet the following requirements:
  - a. No pennants, streamers, balloons, searchlights, strobe lights, beacons, neon lights, or inflatable signs are permitted;
  - b. No portable signage or off-premise signage is permitted except as provided herein;
  - c. No signage may be attached to non-commercial vehicles;
  - d. Signage may not extend above or beyond the limits of the primary structure or the commercial vehicle(s) associated with the business;
  - e. All signage must be attached to the primary structure being used for the sale of fireworks or to a commercial vehicle being used as storage or an integral part of the operation;
  - f. No signage may be located in a public right-of-way or on public property;
  - g. Total square footage of all signage viewable from any one angle for one location shall not exceed 300 square feet; and
  - h. When a location does not abut a public right-of-way and does not have direct access from such right-of-way, one off-site, freestanding sign or banner not to exceed 32 square feet shall be permitted, provided such sign does not interfere with public safety and is not within the public right-of-way or a sight triangle as required in Section 405.190.F. Such sign shall not contribute to the 300 square foot signage allowance.
10. Persons under 16 years of age shall not be employed upon the premises. If any person under 18 years of age is employed at a location selling fireworks, the location shall be supervised by at least one person over the age of 21.
11. Sales of fireworks shall be permitted only during the period of June 25 through July 5 each year. No sales shall be permitted prior to 8:00 A.M. or after 10:00 P.M. on any day, except on July 1, 2, 3 and 4, upon which days the closing time may be 11:00 P.M.
12. No sales of fireworks shall be made to any person under 18 years of age.
13. Licensees shall not permit smoking or any type of open flames upon the premises and shall prominently post at least two signs prohibiting smoking.



Ordinance No. (ID # 6981)

3680

14. Licensees shall not permit debris, wrappers or papers to accumulate on the premises and dumpsters shall be emptied as necessary to maintain the premises in a clean and orderly manner.
  15. Licensees and employees shall not attract customers by means of flagging of vehicles or engage in any activity which obstructs or interferes with the free flow of traffic upon any street or highway. Living signs as defined in Section 405.035 shall be prohibited.
  16. Licensees shall be required to, at all times, possess and give to each paying customer, at no cost, a flyer clearly outlining both the days and times on which it is legal to set off, use, burn, explode or fire-off fireworks as indicated in Chapter 210.
- E. All items permitted under Chapter 320, RSMo., except those classified as "1.4G Class C Common Fireworks" by the United States Department of Transportation, may be sold without acquiring a "fireworks stand" license.
- F. Any license granted hereunder may be suspended and all sales prohibited by the Mayor and/or his/her designee upon violation of any of the provisions listed in this Section or Section 210.690 which pose a danger to the public or if any ordinance violation remains uncorrected for 24 hours after the licensee has been given notice to correct a violation by the City. If a written request is delivered to the office of the Mayor within 10 days of the suspension, a hearing shall be held within 10 days of the receipt of such written request by the Mayor to determine the existence of the violation and the appropriateness of the suspension. Any licensee whose license has been suspended and does not request a hearing before the Mayor, or whose suspension is upheld by the Mayor, shall not be licensed in the next succeeding year for fireworks sales.
- G. The City shall issue no more than five fireworks stand licenses each year. Applications are considered and licenses are granted on a first-come first-served basis. The annual application period shall open on February 1 and close on May 1.

**Section 4:** This Ordinance shall be in full force and effect from and after the date of its passage and approval by the Board of Aldermen.

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI THIS 11 DAY OF January, 2019.

  
Mayor, Nickolas Guccione

Attest:

  
City Clerk, Vitula Skillman

Ordinance No. <sup>3680</sup> (ID # 6981)

APPROVED BY THE MAYOR OF THE CITY OF WENTZVILLE, MISSOURI THIS 12 DAY  
OF January, 2018.

Nickolas Guccione  
Mayor, Nickolas Guccione

Attest:

Vitula Skillman  
City Clerk, Vitula Skillman

Approved as to Form:

[Signature]  
Attorney

