

ORDINANCE 16-O-64 amending Murfreesboro City Code Appendix A— Zoning, Sections 9, 25 and 31, pertaining to seasonal fireworks sales, temporary mobile recycling centers and temporary vendors.

WHEREAS, Ordinance 08-O-50, which passed City Council on third reading on December 18, 2008 and was effective January 3, 2009, amended Murfreesboro City Code Section 12-26, Seasonal Sales of Fireworks, to read, “Items of fireworks may only be sold, offered for sale, or shipped in the City, by persons permitted by the State as fireworks seasonal retailers, between *June 28th and July 5th* and between *December 26th and January 2nd* of the following year.” [emphasis added]; and,

WHEREAS, making this revision to the corresponding Appendix A - Zoning sections was overlooked and needs to be remedied to create consistency within the Code; and

WHEREAS, the requirements regarding “Temporary mobile recycling centers” appear to be more appropriately placed in Sec. 9 with other uses requiring a Special Use Permit from the BZA than in a stand alone section, and portions of the regulations regarding such uses should be modified; and

WHEREAS, the renewals or reissuances of certain Special Use Permits is appropriate for administrative approval without the time and expense of resubmission to the Board of Zoning Appeals.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Appendix A, Section 9, Standards For Special Permit Uses, of the Murfreesboro City Code is hereby amended at subsection (D)(2)(eeee)[18][cc] by changing the dates “June 27” and “June 21” to “June 28” and “June 22”, respectively, and the dates “December 25” and “December 20” to “December 26” and “December 21,” respectively, so that subsection [cc] reads as follows:

“[cc] The sales period for a fireworks seasonal retailer location shall not be approved for a period that begins before June 28 or ends after July 5 and/or begins before December 26 and ends after January 2 of any year. No activity associated with the fireworks seasonal retailer shall be located on the property before June 22 or before December 21 and all materials including sales offices, tents, garbage, trash, etc., shall be removed from the lot on or before July 10 or January 7.”

SECTION 2. Appendix A, Section 9, Standards For Special Permit Uses, of the Murfreesboro City Code is hereby further amended at subsection (D)(2)(eeee)[18] by adding the following additional conditions:

- “[ff] The applicant must obtain a tent permit for the fireworks tent.
- [gg] A fireworks seasonal retainer shall provide certification that the tent is flame-resistant or treated to be flame-resistant.
- [hh] A fire extinguisher shall be kept on-site at all times.
- [ii] The City’s fireworks ordinance shall be posted on-site.
- [jj] No fireworks are to be set off on-site.
- [kk] The site must pass an electrical safety inspection prior to opening for

business. An electrical permit must be purchased from the Building and Codes Department in order to obtain this inspection.”

SECTION 3. Appendix A, Chart 1, is amended by adding an “S” under the “CF” Category for “Fireworks Seasonal Retailer.”

SECTION 4. Appendix A, Section 31, Temporary Mobile Recycling Centers, of the Murfreesboro City Code is hereby amended by deleting it in its entirety.

SECTION 5. Appendix A, Section 2, Interpretation and Definitions, of the Murfreesboro City Code is hereby amended by adding the following definitions, alphabetically:

“Recyclable materials. Aluminum, steel, copper, plastic, glass, paper and / or similar items which may be recycled by reuse or by remanufacturing or reprocessing.

Temporary mobile recycling center. A receptacle, usually a trailer, for the collection of recyclable materials that is drawn by motor power and bears a valid, current state license. For purposes of this definition, “collection” shall mean the accumulation of recyclable materials.”

SECTION 6. Appendix A, Section 2, Interpretation and Definitions, of the Murfreesboro City Code is hereby amended by amending the definition of Recycling center to read as follows: “An establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, selling or reprocessing of recyclable materials. This definition does not include a “Temporary mobile recycling center” which is defined separately.”

SECTION 7. Appendix A, Section 9(D)(2)(dddd) is amended by deleting the word “Reserved” and replacing said word with the following:

“(dddd) *Temporary Mobile Recycling Centers shall be subject to the following additional standards:*

- [1] Subject at all times to applicable state laws and the following conditions, a temporary mobile recycling center may be placed on a parcel zoned college-university (CU), commercial highway (CH), commercial fringe (CF), light industrial (L-I) and heavy industrial (H-I).
- [2] No temporary mobile recycling receptacle shall exceed 48 feet in length.
- [3] The placement of the receptacle and the operation of the temporary mobile recycling center will be reasonably compatible with and not detrimental to the public welfare or injurious to the improvement and use of the adjoining property.
- [4] Two signs per receptacle shall be permitted. The signs shall be mounted on the outside of the receptacle and state the name of the business, the name and telephone number of the responsible party, and hours of operations. All signs shall be subject to Code Chapter 25.2, the Sign Ordinance.
- [5] The site shall be kept in a clean, safe, and sanitary condition.
- [6] The receptacle shall be located so as not to impair traffic flow;
- [7] No receptacle shall be located closer than three hundred (300) feet from residentially zoned property.
- [8] The site shall be used exclusively for collection and shall not have any processing equipment on-site.
- [9] All applicable set-back lines shall be honored.”

SECTION 8. Appendix A, Section 9, Standards for Special Use Permits, of the Murfreesboro City Code is hereby amended by adding the following new subsection (E) as follows:

“(E) *Renewals.* Renewals of Special Use Permits for temporary mobile recycling centers and temporary vendors may be administratively issued by the Planning Director if certain standards are met. In the event the Director has doubt regarding the compatibility of the proposed temporary mobile recycling centers and temporary vendors with adjoining land uses, the Director shall deny approval. Applicants who do not meet the standards listed in this section or whose Special Use Permit applications have been denied by the Director may apply to the Board of Zoning Appeals as provided in Sections 8 and 9 of this article. The standards to be met for administrative issuance are as follows:

- (1) The temporary mobile recycling centers and temporary vendors shall have obtained a Special Use Permit from the Board of Zoning Appeals or the Planning Director within the twelve (12) month period immediately preceding the current application. Any variances previously granted to a temporary mobile recycling center or a temporary vendor during this time frame shall be applicable to the administrative approval as well, provided that the Planning Director determines that the variances had had no detrimental impacts.
 - (a) The current application for a Special Use Permit shall have the same applicant name as the previously-granted Special Use Permit.
 - (b) The current application for a Special Use Permit shall be for the same property (tax map, group, and parcel) as the previously-granted Special Use Permit. The tent, sales yard or other facility shall be placed in the same location on the property as indicated on the previously-granted Special Use Permit. In addition, the applicant for administrative approval of a temporary mobile recycling center or temporary vendor must demonstrate compliance with all standards listed in Sections 9(D)(2)(dddd) and (eeee), respectively.
 - (c) The zoning district and bulk regulations for the location in the current application for a Special Use Permit shall be the same as the zoning district and bulk regulations for the previously-granted Special Use Permit.
 - (d) The length, width, and height dimensions of the tent, sales yard or other facility in the current application for a Special Use Permit shall be the same as the length, width, and height dimensions of the tent, sales yard or other facility in the previously-granted Special Use Permit. The length and/or width dimensions of the tent, sales yard or other facility in the current application may exceed the length and/or width dimensions of the tent, sales yard or other facility in the previously-granted Special Use Permit by two (2) feet, provided that the tent, sales yard or other facility meets all minimum required building setbacks. In the event the Planning Director has doubt regarding the compatibility of the length and/or width expansion with adjoining land uses, the Director shall deny approval. Height expansions shall not be administratively approved by the Planning Director.
- (2) The temporary mobile recycling centers and temporary vendors shall not have been issued a citation, written warning, or fine by any law enforcement agency within the twelve (12) month period immediately preceding the current application. The applicant shall attest in writing that no such actions have been taken by any law enforcement agency.
- (3) The temporary mobile recycling centers and temporary vendors and the property on which they are located shall not have been issued a citation, written warning, or fine by any City, County, Regional, State, or Federal department or agency for any violation of any zoning, building, fire, or property maintenance code or regulation within the twelve (12) month period immediately preceding the current application. The applicant shall attest in writing that no such actions have been taken by any governmental department or agency.”

SECTION 9. Appendix A, Section 25, Temporary and Accessory Structures and Uses, of the Murfreesboro City Code is hereby amended at subsection (D)(5) by adding the phrase "and Section 9(E)" after the phrase "Section 9(D)(2)(eeee)," so that subsection (D)(5) reads as follows:

"(5) temporary outdoor sales of food or retail merchandise not accessory to the actual principal use of a property including sales of fireworks and Christmas trees ("Temporary Vendors"), except as provided in Section 25(B)(20), shall be permitted in the CL, CF, CH, H-I, and L-I districts subject to the additional standards of Section 9(D)(2)(eeee) and Section 9(E). For the purposes of this subsection, "food" includes but is not limited to prepared food, produce, and beverages; and "retail merchandise" includes but is not limited to furniture, appliances, floor coverings, art or decorative items, clothing, animals, and souvenirs;"

SECTION 10. Appendix A, Section 25, Temporary and Accessory Structures and Uses, of the Murfreesboro City Code is hereby amended at subsection (D)(6) by adding the phrase "and Section 9(E)" after the phrase "Section 9(D)(2)(eeee)," so that subsection (D)(6) reads as follows:


"(6) sales of Christmas trees accessory to an institutional group assembly use, which uses include recreation fields, public buildings, public or private schools grades K-12, lodges, country clubs, clubs, churches, and other places of worship, shall be permitted in the RS-15, RS-12, RS-10, RS-8, RS-4, RD, RM-12, RM-16, RM-22 and RZ districts subject to the additional standards of Sections 9(D)(2)(eeee) and Section 9(E) provided, that if the applicant provides written documentation from the owner of the institutional group assembly use, or duly authorized agent thereof, that the institutional group assembly use will be responsible for clearing and cleaning of the site within the time specified in Section 9(D)(2)(eeee)[19][aa] should the applicant fail to do so, the applicant for such accessory Christmas tree sales use shall not be required to post a deposit as otherwise required by Section 9 (D)(2)(eeee)[6]; and,"

SECTION 11. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

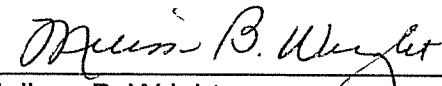
Passed:

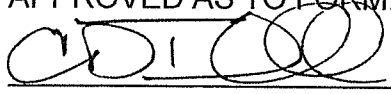
1st reading December 15, 2016

2nd reading January 5, 2017


Shane McFarland, Mayor

ATTEST:


Melissa B. Wright
City Recorder

APPROVED AS TO FORM:

Craig D. Tindall
City Attorney

SEAL