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MEMORANDUM

FROM: Destiny S. Washington *DW*
TO: William Whitson, City Manager
DATE: June 2, 2016
ISSUE: Hapeville's Fireworks Ordinance

In July 2015, House Bill 110 went into effect. House Bill 110 allows the sale of consumer fireworks and preemption of most aspects of fireworks regulation.

House Bill 110 permitted the ignition of consumer fireworks until midnight every day of the year, and until 2:00 a.m. on New Year's Eve, New Year's Day and the Third and Fourth of July.

Further, House Bill 110 permitted cities and/or counties to take the following actions:

- Issue occupational tax certificates to permanent consumer fireworks stores ("stores") and temporary consumer fireworks stands ("stands").
- Issue operating licenses to stands (through the city's or county's fire department). Stores are regulated by the state.
- Issue special use permits to allow persons to explode fireworks outside of state-mandated hours.
- Zone stores and stands.

House Bill 727, passed in April 2016, makes the following changes to state law:

- Consumer Fireworks may be ignited until 1:00 a.m. on New Year's Day.
- Consumer Fireworks may only be ignited until midnight on New Year's Eve and the Third and Fourth of July.
- Consumer Fireworks may only be ignited until 9:00 p.m. on any other day.
- Consumer Fireworks may be ignited between 9:00 p.m. and midnight on any other day if either (1) the city allows it pursuant to its noise ordinance, or (2) the city requires a special use permit to ignite consumer fireworks after 9:00 p.m. and the igniter obtains such a permit.
- In addition to prohibiting ignition of consumer fireworks indoors, consumer fireworks may not be ignited upon or within the right of way of a public road, street, highway, or railroad of this state.
- The ignition of consumer fireworks is prohibited within 100 yards of an electric plant, water treatment plant, waste-water treatment plant, public or private electric substation, jail/prison, public use air facility, or hospital/nursing home/health care facility.

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- Ignition of consumer fireworks is prohibited within a city park/historic site/recreation center (unless a special use permit is obtained from the city).
- Ignition of consumer fireworks is prohibited within a state park/historic site/recreation center.
- Ignition of consumer fireworks is prohibited by one who is under the influence of alcohol or drugs.
- When the governor declares a drought in any area of the state, the governor can impose additional regulation upon that area, but such regulations are not effective on New Year's Eve, New Year's Day, and the Third and Fourth of July.
- The City can regulate stands until January 31, 2018.

Most importantly, state law provides that a city shall not prohibit the sale or use or ignition of consumer fireworks or other products or services which are lawful under Chapter 10 of Title 25, unless such prohibition is expressly authorized by general law (OCGA 36-60-24(a)).

Section 26-2-4 of Hapeville's Code of Ordinances prohibits ignition of fireworks within city limits, which conflicts with state law. Therefore, Section 26-2-4 should be amended to remove references to consumer fireworks.

Destiny S. Washington