

CITY OF ROMULUS

ORDINANCE NO. 13-293

AN ORDINANCE TO AMEND CHAPTER 12, ARTICLE V “FIREWORKS”, OF THE CITY OF ROMULUS CODE OF ORDINANCES IN ORDER TO PROVIDE FOR CHANGES TO THE STATE LAW PERTAINING TO FIREWORKS.

THE CITY OF ROMULUS, WAYNE COUNTY, MICHIGAN, HEREBY ORDAINS:

THE CODE OF ORDINANCES OF THE CITY OF ROMULUS, MICHIGAN, CHAPTER 12, ARTICLE V, IS HEREBY AMENDED AS SET FORTH BELOW:

CHAPTER 12. FIRE PREVENTION AND PROTECTION

ARTICLE V. FIREWORKS*

*Cross reference(s)—Offenses against public safety, § 20-206 et seq.

State law reference(s)— MCL 28.451, *et seq*, P.A. 2013, No. 65, Sec. 1, *et seq*.

DIVISION 1. GENERALLY

Sec. 12-81. Defined.

“Agricultural and wildlife fireworks,” for purposes of this article, means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States department of the interior or the department of natural resources of this state.

“APA standard 87-1,” for purposes of this article, means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland.

“Articles pyrotechnic,” for purposes of this article, means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

“Consumer fireworks,” for purposes of this article, means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks or novelties.

“Display fireworks,” for purposes of this article, means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1. Display Fireworks are additionally classified as Div. 1.3G-Display Fireworks, UN0335; explosives w/mass fire or minor explosion and Div.1.1G-Large Shells, >10”, >71 grams of powder, mass explosion possible.

“Firework” or “Fireworks,” for purposes of this article, means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

“Low-impact fireworks,” for purposes of this article, means ground and hand-held sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

“National holiday,” for purposes of this article, means the following:

- (a) New Year’s Day (January 1);
- (b) Birthday of Martin Luther King, Jr. (the third Monday in January);
- (c) Birthday of George Washington (Presidents Day) (the third Monday in February);
- (d) Memorial Day (the last Monday in May);
- (e) Independence Day (July 4);
- (f) Labor Day (the first Monday in September);
- (g) Columbus Day (the second Monday in October);
- (h) Veteran’s Day (November 11);
- (i) Thanksgiving Day (the fourth Thursday in November);
- (j) Christmas Day (December 25);
- (k) Any additional national holiday enacted hereinafter by Congress and signed into law by the President of the United States of America.

“Novelties,” for purposes of this article, means that term as defined under APA standard 8701, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

- (a) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (b) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (a) above are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that

are not designed to break apart or be separated so as to form a missile by the explosion.

- (c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 piece per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

"Special effects," for purposes of this article, means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

Sec. 12-82. Prohibitions pertaining to consumer fireworks.

- (a) Subject to the provisions of subsection (b) hereunder, no person shall ignite, discharge, or use consumer fireworks within the city or allow or permit the same by any persons on his or her property.
- (b) Persons otherwise in compliance with this Article and other applicable laws and ordinances may ignite, discharge, or use consumer fireworks on the day preceding, the day of, or the day after a national holiday, except:
 - (1) between the hours of 1AM and 8AM on New Year's day;
 - (2) between the hours of 12 midnight and 8AM for the day preceding and the day after New Year's day; and
 - (3) between the hours of 12 midnight and 8AM for each other national holiday and the day preceding and the day after each other such national holiday, consistent with Sec. 7 (2)(a) of Public Act 65 of 2013.
 - (4) Every permissible ignition, discharge, and use of consumer fireworks shall be handled by a competent and responsible person and shall be of such a character and so located, discharged or fired so that it shall not be hazardous to property or endanger any person.
 - (5) No person igniting, discharging, or using consumer fireworks shall ignite, project, or permit such fireworks to be ignited or projected on, over, or onto the property of another person or entity, or on public property, church property, or school property, without the consent of the person or entity having control of such property.
 - (6) A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor (as defined in MCL 257.1d), a controlled substance (as defined in MCL 257.8b), or combination thereof.

Sec. 12-83. Manufacture in city prohibited.

The manufacture of fireworks within the city is prohibited.

(Ord. of 5-14-84, § 710.203)

Sec. 12-84. Enforcement; penalties.

- (1) The City of Romulus Fire Chief, his designee(s), and sworn law enforcement officers are authorized to enforce the provisions of this ordinance.
- (2) An authorized fire or police official shall seize, take, remove, or cause to be removed, at the expense of the owner, all fireworks are, or are attempted to be, ignited, discharged, or used in violation of this article.
- (3) Any items so confiscated by a police or fire official may be disposed of in a manner approved by the state police upon ten (10) days written notice to the owner and/or turned over to the Michigan Department of Licensing and Regulatory Affairs or other authorized authority, as applicable.
- (4) Any person, firm, or corporation who violates any provision of this ordinance shall be guilty of a civil infraction and subject to a fine not to exceed Five Hundred Dollars (\$500.00) for each violation; provided, however, that any person, firm, or corporation who commits any act which constitutes a violation of any other ordinance of the City of Romulus or other law, shall also be subject to the penalties prescribed by the same.

Sec. 12-85. Applicability of other ordinances and other laws; reservation of authority by City.

Nothing contained in or omitted from this ordinance pertaining to fireworks or otherwise shall in any way be construed to preclude the application of other applicable ordinances of the City of Romulus, including, without limitation, the City of Romulus Zoning Ordinance. The City of Romulus retains any and all authority provided to it and which is otherwise not expressly pre-empted by MCL 28.451, *et seq.*, P.A. 2013, No. 65, Sec. 1., *et seq.*

The ignition, discharge, or other use of fireworks shall additionally comply with any and all other applicable state and federal laws, rules, and regulations, including, without limitation, those pertaining to the Federal Aviation Administration and which otherwise affect flights and/or other operations at the Detroit Metropolitan Airport.

Secs. 12-86 – 12-100. Reserved.

DIVISION 2. PUBLIC AND PRIVATE DISPLAYS

Sec. 12-101. Permit—Required.

Consistent with MCL 28.466, no person, firm, or entity shall use agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, or special effects [manufactured for outdoor pest control or agricultural purposes], or otherwise conduct any public or private display with

any of the foregoing materials within the city without obtaining a permit therefor. The permit must first be approved by the city council on forms supplied by the Michigan department of licensing and regulatory affairs.

Sec. 12-102. Same—Application.

- (a) Application for permits shall be made in writing at least fifteen (15) days in advance of the date of the activity.
- (b) The permit application shall set forth:
 - (1) The name of the individual or organization sponsoring the activity, together with the name, age, experience, and physical characteristics of the person actually in charge of operating the activity.
 - (2) The date and time of day when the activity will be held;
 - (3) The exact location plan for the activity;
 - (4) The number and kinds of fireworks or other materials contemplated under this division to be discharged;
 - (5) The manner and place of storage of such fireworks or other materials contemplated under this division prior to the activity;
 - (6) A diagram of the grounds where the activity is to be held, showing the point at which the fireworks or other materials contemplated under this division are to be discharged; the location of all buildings, highways, and other lines of communication; the lines behind which the audience will be restrained; and the location of all trees, telegraph, telephone, or electrical wires in the nearby vicinity and other overhead obstructions.
- (c) The application for a permit shall be verified by affidavit. The fire chief shall make or cause to be made an inspection of the place stated in the application as the location of the proposed activity contemplated under this division to ascertain whether it is a safe and proper location for the activity. He shall also investigate the qualifications of the proposed operator of the activity. He shall also ascertain whether the applicant is a bona fide fair association, amusement park, or other organization or group of individuals. He shall also inquire into the kind and character of the fireworks or other materials contemplated under this division proposed to be used in the activity. If he shall ascertain that the proposed activity is to be given in a proper place, by a competent operator so that it shall not be hazardous to property or endanger any person, he shall issue his recommendation to the city council for the issuance of the necessary permit.

- (d) The permit application shall be accompanied by a non-refundable fee in the amount of Five Hundred Dollars (\$500), or such other amount as set by resolution of the City Council from time to time, which amount shall be retained by the city.
- (e) The city council, upon recommendation by the fire chief – who shall additionally notify and/or consult with the police department – shall rule on the competency and qualifications of articles pyrotechnic and display fireworks operators as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.
- (f) A permit shall not be issued to any person under 18 years of age.
- (g) A permit shall not be issued to a non-Michigan resident person, firm, or corporation for ignition of articles pyrotechnic or display fireworks in the City until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

Sec. 12-103. Same—Transferability and scope.

A permit granted under this division shall not be transferable, nor shall any such permit be extended beyond the dates set out therein. The possession, use, transportation, sale, and distribution of the subject approved fireworks or other materials contemplated under this division shall be lawful under the terms and conditions approved with the permit and for that purpose only.

Sec. 12-104. Bond.

A permittee shall furnish a bond or display liability insurance in an amount of not less than two million dollars (\$2,000,000.00) or as subsequently modified by resolution of the City Council from time to time for the payment of damages that may be caused either to a person or to property by reason of the permitted activity, and arising from any acts of the permittee, his agent, employees or subcontractors.

Sec. 12-105. Rights of police and fire departments.

The fire department and the police department shall have the right to be present at any permitted activity under this division, and shall have the right to cause the same to be stopped unless it is conducted in strict accordance with the qualifying statements made in the application and so as not to be hazardous to property or to endanger any person.

Sec. 12-106. Conducting of activities contemplated under this division; penalty.

- (a) Operator; Safety generally. Every permitted activity hereunder shall be handled by a competent and responsible operator approved by the fire or police chief and shall be of such a character and so located, discharged or fired so that in the opinion of the fire chief it shall not be hazardous to property or endanger any person. No such opinion rendered by the fire chief shall in any way affect the liability of the operator.
- (b) Neighboring property. No person, firm, or entity conducting any activity contemplated under this division shall project or permit such fireworks to be projected over or onto the property of another person without providing the written and notarized consent of the person having control of such property, nor shall any person ignite, explode, project, or otherwise make use of any fireworks within two hundred (200) feet of any dwelling or other structure wherein persons reside or as depicted under the current National Fire Protection Association Standard (NFPA) 1123.
- (c) Penalty. Any person, firm, or corporation who violates any provision of this division shall be guilty of a civil infraction and a fine not to exceed Five Hundred Dollars (\$500.00) for each violation and also subject to confiscation of the fireworks or other materials; provided, however, that any person, firm, or corporation who commits any act which constitutes a violation of any other ordinance of the City of Romulus or other law, shall also be subject to the penalties prescribed by the same.

Sec. 12-107. Storage.

The storage of materials for use in a permitted activity hereunder will be limited to the amount required for the permitted activity.

Sec. 12-108. Disposal of unused materials.

Unused materials for use in permitted activities hereunder and trash that remains after such activity is concluded, shall be immediately disposed of in a safe manner approved by the fire chief.

Secs. 12-109 – 12-120. Reserved.

Savings Clause: Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court or administrative body, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any Act or Ordinance hereby repealed by this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

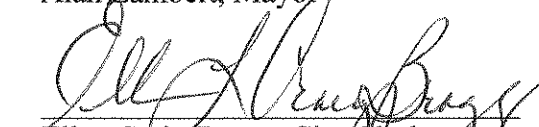
Severability: Should any word, sentence, phrase, or any portion of this Ordinance be held in a manner invalid by any court of competent jurisdiction or by an state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such word, sentence, phrase or any portion of the Ordinance held to be so invalid and shall not be construed as affecting the validity of any of the remaining words, sentences, phrases, or portions of this Ordinance.

Conflicting Ordinances: All prior existing ordinances adopted by the City of Romulus inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

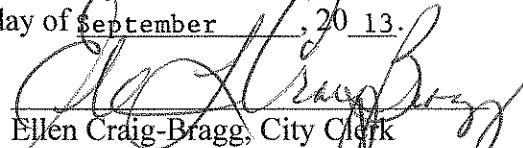
Readings: This Ordinance shall be given a first reading on September 3, 2013, shall be enacted on September 9, 2013 and shall be published on or before October 3, 2013 and shall be effective October 3, 2013.

ADOPTED, APPROVED, AND PASSED by the City Council of the City of Romulus this 9th day of September, 20 13.

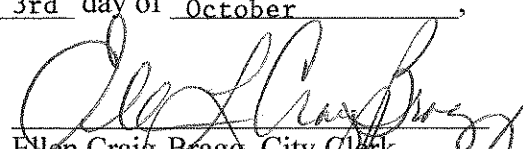

Alan Lambert, Mayor


Ellen Craig-Bragg, City Clerk

I hereby certify that the foregoing is a true copy of the Ordinance as passed by the City Council of the City of Romulus at a regular Council Meeting held in the City Council Room at City Hall in the City of Romulus on the 9th day of September, 20 13.


Ellen Craig-Bragg, City Clerk

I further certify that the foregoing was published in the Romulus Roman, a newspaper printed in the City of Romulus, on the 3rd day of October, 20 13.


Ellen Craig-Bragg, City Clerk

INTRODUCED:	<u>09-03-13</u>
ADOPTED:	<u>09-09-13</u>
PUBLISHED:	<u>10-03-13</u>

Within forty-five (45) days after the publication of any ordinance duly passed by the Council, a petition may be presented to the Council protesting against such ordinance continuing in effect. Said petition shall contain the text of such ordinance and shall be signed by not less than six (6%) of the registered electors registered at the last preceding election at which a Mayor of the City was elected. Said ordinance shall thereupon and thereby be suspended from operation and the Council shall immediately reconsider such ordinance.