

**Fireworks Ordinance Amendment  
First Reading**

January 17, 2019

The Honorable Mayor Fournier and  
Members of the City Commission:

On December 28, 2018, then-Governor Richard Snyder approved House Bills 5939, 5940 and 5941, tie-barred legislation amending the Michigan Fireworks Safety Act, MCL 28.451 et seq. In terms of local government, the most significant portion of this legislation is authorization to significantly reduce the number of days and hours that a person may ignite, discharge or use consumer fireworks.

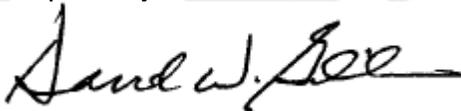
Under the prior Act, a local unit could not regulate the use of fireworks between 8:00 a.m. and 12:00 midnight on the day before, the day of, or the day after any national holiday (New Year's Day, Martin Luther King Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day). On New Year's Day, the use of fireworks could only be regulated between 1:00 a.m. and 8:00 a.m.

Under the amended Act, a local unit may now limit the use of fireworks to a total of fourteen hours on New Year's Eve and New Year's Day; to approximately twelve hours on the Saturday and on the Sunday before Memorial Day; to approximately twelve hours on each of the five days leading up to the Fourth of July; to approximately twelve hours on the Fourth of July; to approximately twelve hours on July 5 (if that day is a Friday or a Saturday); and to approximately twelve hours on the Saturday and on the Sunday before Labor Day. In addition, the maximum penalty for a violation of a local ordinance imposing these restrictions was increased from \$500 to \$1,000.

The proposed amendment to Chapter 345 of the City Code, the Fireworks Ordinance would prohibit the use of consumer fireworks to the fullest extent permitted under the Fireworks Safety Act (Attachment 1). In addition, the Ordinance will prohibit the use of fireworks on public property, school property, church property, or any other person's property without permission; prohibit the use of fireworks while under the influence of alcohol and/or a controlled substance; require a person found responsible for a violation of the ordinance to pay the actual cost of storage and destruction of the fireworks; and continue to prohibit the possession of fireworks by a minor. We recommend approval of the following resolution:

**Be it resolved**, that the City Commission hereby approves the 2019 Amendments to the Fireworks Ordinance on first reading.

Respectfully submitted,



David W. Gillam  
City Attorney

1 Attachment

# Attachment 1

## ORDINANCE NO. 19 - \_\_\_\_

### AN ORDINANCE TO AMEND CHAPTER 345 OF THE CITY CODE, "FIREWORKS", TO THE EXTENT PERMITTED BY THE MICHIGAN FIREWORKS SAFETY ACT, MCL 28.451 ET SEQ., AS AMENDED BY PUBLIC ACTS 634, 635 AND 636 OF 2018

THE CITY OF ROYAL OAK ORDAINS:

Section 1. Short Title. This ordinance shall be known as and may be cited as the "2019 Amendments to the Fireworks Ordinance."

Section 2. Statement of Purpose. This is an ordinance to amend Chapter 345 of the City Code, "Fireworks", to the extent permitted by the Michigan Fireworks Safety Act, MCL 28.451 et seq., as has been amended by Public Acts 634, 635 and 636 of 2018.

Section 3. Amendment at Section 345-3. The Code of the City of Royal Oak is hereby amended at Chapter 345, "Fireworks", Section 345-3, "Definitions", which shall now read as follows:

#### **"Section 345-3. Definitions.**

As used in this chapter, the following terms shall be defined as follows:

#### **APA STANDARD 87-1**

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.

#### **CONSUMER FIREWORKS**

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.

#### **FIREWORKS**

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.

#### **LOW-IMPACT FIREWORKS**

Ground and handheld sparkling devices as that phrase is defined under APA Standards 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

#### **MINOR**

An individual who is less than 18 years of age."

Section 4. Amendment at Section 345-4. The Code of the City of Royal Oak is hereby amended at Chapter 345, "Fireworks", Section 345-4, "Ignition, Discharge and Use of Consumer Fireworks", which shall now read as follows:

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## **“Section 345-4. Ignition, Discharge or Use of Consumer Fireworks.**

- A. Except as provided in this Section, a person shall not ignite, discharge, or use consumer fireworks at any time.
- B. A person may ignite, discharge, or use consumer fireworks on the following days during the following hours:
  - 1. Between 11:00 a.m. on December 31 and 1:00 a.m. on the immediately following January 1.
  - 2. Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Memorial Day.
  - 3. Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Memorial Day.
  - 4. Between 11:00 a.m. and 11:45 p.m. on June 29, June 30, July 1, July 2, July 3 and July 4.
  - 5. Between 11:00 a.m. and 11:45 p.m. on July 5, if that date is a Friday or a Saturday.
  - 6. Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Labor Day.
  - 7. Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Labor Day.
- C. A violation of this Section is a civil infraction, punishable by a fine of \$1,000. Of that fine, \$500 must be remitted to the Royal Oak Police Department.”

Section 5. Amendment at Section 345-6. The Code of the City of Royal Oak is hereby amended at Chapter 345, “Fireworks”, Section 345-6, “Determination of Violation; Seizure”, which shall now read as follows:

## **“Section 345-6. Ignition, Discharge or Use of Consumer Fireworks on Public Property, School Property, Church Property or the Property of Another Person.**

- A. A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person without that organization’s or person’s express permission to use those fireworks on those premises.
- B. A violation of this Section is a civil infraction, punishable by a fine of not more than \$500.”

Section 6. Amendment at Section 345-7. The Code of the City of Royal Oak is hereby amended at Chapter 345, “Fireworks”, Section 345-7, “Violations and Penalties”, which shall now read as follows:

## **“Section 345-7. Ignition, Discharge, or Use of Consumer Fireworks While Under the Influence.**

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- A. A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
- B. As used in this Section, “alcoholic liquor” means that term as defined in Section 1d of the Michigan Vehicle Code, MCL 257.1d, as may be amended, and “controlled substance” means that term as defined in Section 8b of the Michigan Vehicle Code, MCL 257.8b, as may be amended.
- C. A violation of this Section is a civil infraction, punishable by a fine of not more than \$1,000.”

Section 7. Amendment at Section 345-8. The Code of the City of Royal Oak is hereby amended at Chapter 345, “Fireworks”, to include a new Section 345-8, which shall read as follows:

**“Section 345-8. Determination of Violation; Seizure; Destruction; Storage Costs.**

- A. If the Royal Oak Police Department determines through its investigation that a violation of this Chapter has occurred, the Department may seize the firework as evidence of the violation. The Department shall store, or cause to be stored, the evidence seized under this Section pending disposition of any proceedings arising from the violation.
- B. Following a final disposition of an appeal of a finding of responsibility under this Chapter that affirms the finding, the Department may dispose of or destroy any fireworks retained as evidence in that proceeding.
- C. A person from whom fireworks are seized under this Chapter shall pay the actual costs of storage and disposal of the seized fireworks if found responsible for a violation of this Chapter.”

Section 8. Severability. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 9. Savings. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 10. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 11. Effective Date. This ordinance shall take effect ten (10) days after the final passage thereof.