City of Troy

MEMORANDUM

TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney LGB
DATE: July 18, 2012
SUBJECT: Fireworks Regulations

The Michigan Legislature's passage of the Michigan Fireworks Safety Act (2011 PA 256) has caused some municipalities to enact local regulations concerning the use and discharge of fireworks. Due to activity during the past month, some members of the Michigan legislature are reviewing the newly enacted state statute, MCL 28.451 et. seq. to address concerns that have been raised by residents and local governmental units.

In the interim, some municipalities have enacted ordinances that completely prohibit the use or discharge of fireworks on days other than the national holidays. Local ordinances have been enacted in Birmingham, Center Line, Ferndale, Keego Harbor, Novi, Rochester Hills, Royal Oak, Sterling Heights, Sylvan Lake, Warren, West Bloomfield and other metropolitan Detroit communities, as well as in cities on the west side of the State, including Grand Rapids, Kentwood and Walker.

The current state law pre-empts any local regulation addressing the use and discharge of fireworks on the national holidays (including the day before and the day after the holiday). In other communities, there have been challenges to criminal noise citations issued on these designated days, so there may be case law in the near future clarifying this aspect.

The City of Troy has used state law and Troy's existing ordinances to address firework complaints. Under state law, fireworks cannot be discharged on public property, school property, church property, or the property of another person (unless explicit permission is given). Persons under the influence of drugs or alcohol are prohibited from discharging fireworks. Minors cannot purchase the more powerful fireworks that are otherwise authorized under the new state statute. All of these provisions are incorporated in Troy's ordinance, which requires compliance with the State law. Troy also has additional provisions, including Chapter 98, Section 98.05.05, prohibiting loud conduct which disturbs the peace and quiet. This provision can be cited if persons are caught disturbing the peace with the use of fireworks. The City also has a nuisance ordinance, Chapter 88 of the City of Troy Ordinances, which could be used against property owners to abate a continuing nuisance, such as loud conduct or littering.

City Administration is happy to work on a proposed ordinance revisions concerning fireworks if Council directs. A proposed ordinance could do any of the following:

- prohibit fireworks on all days but the designated holidays; and/or
- set hours on the discharge of fireworks; and/or
- prohibit minors from using or discharging fireworks; and/or
- create setbacks from residential property; and/or
- other items that need to be addressed

Please let us know how Council would like to proceed on this matter.