



CITY COUNCIL AGENDA ITEM

Date: March 24, 2014

To: Brian Kischnik, City Manager

From: William Nelson, Fire Chief
David Roberts, Assistant Fire Chief/Fire Marshal
Timothy Richnak, Public Works Director
Mark F. Miller, Director of Economic & Community Development
Kurt Bovensiepe, Superintendent of Parks, Streets and Drains
Elaine Bo, Recreation Director

Subject: Troy City Code Chapter 26 – Parks – General Regulations

Troy City Code Chapter 26, titled Parks – General Regulations, Section 26.08, titled Fireworks, currently prohibits anyone from bringing into the park and discharging any type of fireworks, rocket, or explosives without a special permit granted by the City Manager or the Fire Chief.

The Michigan Fireworks Safety Act of 2011, as amended, prohibits the use of consumer fireworks without the property owner's or organization's permission to use those fireworks on the premises. The Act, however, does not address low impact fireworks (sparklers, snakes, snaps, poppers) in these locations, and does not regulate novelty fireworks in general. The Act does allow a local unit of government to regulate consumer fireworks on any day except the day preceding, the day of, or the day after a national holiday.

Each year the Parks Division, Recreation Department, and the Fire Department are requested to grant permission for low impact fireworks usage in a City park as part of the annual Dewali religious celebration. The proposed changes to Chapter 26 Section 26.08 would allow for this type of activity, yet allow the Fire Department to require a permit for consumer and display fireworks as permitted by the Act.

Currently, Chapter 26 Section 26.11 allows the consumption of beer only with a special permit from the Police Chief in a City park. To meet the demands of patrons, city administration is proposing to amend this section to include the consumption of wine in a park. The proposed change also transfers responsibility of approving an alcohol permit to the Recreation Director when combined with a shelter permit and provides better language for enforcement. After the presentation of the proposed changes on March 17, 2014 to City Council, City Staff had discussion that led to some additional changes, which make the ordinance consistent with the policy to limit the consumption of alcohol to beer and wine only. These changes are highlighted in blue. The consumption is limited to the confines of the park shelter.

City Attorney's Review as to Form and Legality

Lori Grigg Bluhm, City Attorney

CITY OF TROY
AN ORDINANCE TO AMEND

CHAPTER 26 - CITY OF TROY ORDINANCE

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 26- City of Troy Ordinance.

Section 2. Amendment

Section 26.08 shall be amended as follows:

~~26.08 Fireworks. No person shall bring into a park, or have in his/her possession, or set off any firecrackers, torpedoes, rockets, or other fireworks or explosives, or otherwise cause the same to explode in a park. No person shall discharge any firecrackers, torpedoes, rockets, or other fireworks or explosives, or throw them into any park area from land or highway. The exception to this prohibition is when a special permit is granted by the City Manager and Fire Chief, which should include restrictions as to time and location.~~

26.08. Fireworks. No person shall discharge, ignite, use, possess, activate or throw consumer fireworks or display fireworks in a public park, unless the Troy Fire Chief or his/her designee issues a permit to the person in advance and in accordance with the fire department's permit policy and the person is in compliance with the permit conditions. Fireworks are defined in the Michigan Fireworks Safety Act, 2011 Public Act No. 256 (MCL 28.451), as amended.

Section 26.11 shall be amended as follows:

~~26.11 Alcoholic Beverages. No person shall bring alcoholic beverages into the Park nor shall any person drink alcoholic beverages at any time in the Park unless he/she shall have first obtained a written permit for beer for that specific date from the Police Chief. No permit shall be issued for consumption of alcoholic beverages that have a higher alcoholic content than beer.~~

No person shall possess or consume alcoholic beverages in a public park at any time unless the Recreation Director or his/her designee has issued a written park shelter reservation permit that specifically allows for the consumption of beer or wine (as defined in the Michigan Liquor Control Code, Public Acts of 1998 No. 58, as amended; MCL 436.1101), alcohol in the park on the designated date, location and time, and the person is in compliance with the terms of the issued permit. If such a permit is issued, the possession or consumption of beer or wine alcohol is limited to the park shelter and its immediate vicinity, and does not extend to the ball diamonds, soccer fields, children's play areas, restrooms, parking lots, or other areas of the park.

Section 3. Repeal

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 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Dane M. Slater, Mayor

M. Aileen Bittner, CMC, City Clerk